S. HRG. 98-157

FARM AND HOME FORECLOSURES

HEARING

BEFORE THE

SUBCOMMITTEE ON COURTS

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

FARM AND HOME FORECLOSURES AND RELATED PERSONAL BANKRUPTCIES

MARCH 14, 1983

Serial No. J-98-18

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE

20-231 O WASHINGTON : 1983

552458

COMMITTEE ON THE JUDICIARY

STROM THURMOND, South Carolina, *Chairman*

CHARLES McC. MATHIAS, JR., Maryland
PAUL LAXALT, Nevada
ORRIN G. HATCH, Utah
ROBERT DOLE, Kansas
ALAN K. SIMPSON, Wyoming
JOHN P. EAST, North Carolina
CHARLES E. GRASSLEY, Iowa
JEREMIAH DENTON, Alabama
ARLEN SPECTER, Pennsylvania

JOSEPH R. BIDEN, JR., Delaware
EDWARD M. KENNEDY, Massachusetts
ROBERT C. BYRD, West Virginia
HOWARD M. METZENBAUM, Ohio
DENNIS DECONCINI, Arizona
PATRICK J. LEAHY, Vermont
MAX BAUCUS, Montana
HOWELL HEFLIN, Alabama

VINTON DEVANE LIDE, *Chief Counsel and Staff Director*
DEBORAH K. OWEN, *General Counsel*
SHIRLEY J. FANNING, *Chief Clerk*
MARK H. GITENSTEIN, *Minority Chief Counsel*

SUBCOMMITTEE ON COURTS

ROBERT DOLE, Kansas, *Chairman*

STROM THURMOND, South Carolina
ALAN K. SIMPSON, Wyoming
JOHN P. EAST, North Carolina

HOWELL HEFLIN, Alabama
MAX BAUCUS, Montana
DENNIS DECONCINI, Arizona

DOUGLAS B. COMER, *Chief Counsel and Staff Director*
ARTHUR BRISKMAN, *Minority Chief Counsel*

CONTENTS

STATEMENTS OF COMMITTEE MEMBERS

	Page
Dole, Senator Robert	1
Baucus, Senator Max	2

CHRONOLOGICAL LIST OF WITNESSES

Forsness, Jo Ann, farm credit chairman, Women Involved in Farm Economics [WIFE], Wolf Point, Mont.; Jerome G. Daily, vice president, Great Falls Production Credit Association, Federal Land Bank Association of Great Falls, Great Falls, Mont.; and David Miller, president, Ohio Farm Bureau, representing the American Farm Bureau, Washington, D.C	3
Sommer, Henry J., staff attorney, Community Legal Services, Inc., Philadelphia, Pa.; Rev. Morris Shearin, Garysburg, N.C.; and John W. Garland, executive director, Legal Services of the Coastal Plains	27
Naylor, Frank W., Jr., Under Secretary for Small Community and Rural Development, U.S. Department of Agriculture, Washington, D.C.; Carl T. (Terry) Fredrickson, Senior Deputy Governor, Farm Credit Administration, Washington, D.C.; and Jamie J. Jackson, Board member, Federal Home Loan Bank Board, Washington, D.C	86

ALPHABETICAL LIST AND MATERIAL SUBMITTED

Daily, Jerome G.:	
Testimony	3
Prepared statement	18
Selected 1982 PCA statistics for Montana	20
Dole, Senator Robert: Letter from Robert J. Mylod, president and chief operating officer, Federal National Mortgage Association	81
Attachment: Lenders' and Government Agencies' Contribution to the Problem	84
Forsness, Jo Ann:	
Testimony	3
Prepared statement	16
Fredrickson, Carl T. (Terry):	
Testimony	86
Prepared statement	94
Statement of the Federal Farm Credit Board: Lending Under Stress Conditions	127
Garland, John W.:	
Testimony	27
Report of Investigation, document concerning alleged racial discrimination, dated July 14, 1980, U.S. Department of Agriculture, Complaints and Appeals Staff, Office of Equal Opportunity	67
Letters to James Frazier, Director, Office of Equal Opportunity, USDA	77, 79
Jackson, Jamie J.:	
Testimony	86
Prepared statement	128
Miller, David:	
Testimony	3
Prepared statement of the American Farm Bureau Federation	25
Naylor, Frank W., Jr.:	
Testimony	86
Additional submissions subsequently supplied for the record	91, 93

Page

Shearin, Morris:
Testimony 27
Prepared statement 45
Attachment A: Proclamation declaring February 20–27, 1983, as Land Loss Prevention Week, signed by James B. Hunt, Jr., Governor of the State of North Carolina 51
Attachment B: Landownership fact sheet 52
Attachment C: Limited Civil Rights Compliance Review of Gates and Hertford Counties, N.C 53
Sommer, Henry J.:
Testimony 27
Prepared statement 34
Articles from the Philadelphia Inquirer, by Marc Kaufman:
"Judge Delays Sheriff's Sale of Homes While a Moratorium is Considered," February 2, 1983 41
"Homeowners in Debt Find New Wolf at Door," February 11, 1983 42

FARM AND HOME FORECLOSURES

MONDAY, MARCH 14, 1983

U.S. SENATE,
SUBCOMMITTEE ON COURTS,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:12 a.m., in room SD-226, Dirksen Senate Office Building, Senator Robert Dole (chairman of the subcommittee) presiding.

Also present: Senator Baucus.

Staff present: Doug Comer, chief counsel and staff director; Richard Velde, special counsel; Leslie Evans, research assistant; Patricia Brown, chief clerk; and Mary B. Troland, counsel to Senator Baucus.

OPENING STATEMENT OF SENATOR ROBERT DOLE

Senator DOLE. First, let me apologize for being delayed. I was downtown making a speech in front of traffic.

The Subcommittee on Courts convenes today to hear testimony on the problem of farm and home foreclosures and related personal bankruptcies.

During the past few months, the media has focused its attention on the growing numbers of farm and home foreclosures, which have approached record high levels around the country. An unprecedented number of mortgage defaults, accompanied by a rash of personal bankruptcy filings, underscores the financial hardships burdening our farmers and homeowners.

Our farming population, which has dropped by an alarming one-third since the early 1970's, faces increasingly stringent economic conditions in the forthcoming year. Low commodity prices, reduced Federal assistance, and increasing production and maintenance costs have made it difficult for farmers to meet existing financial obligations and to obtain extended credit. The picture is not much brighter for the homeowner. Burdened with high interest rates, restricted credit, and a dearth of job opportunities, many homeowners are simply unable to uphold their financial commitments and are forced to default on their mortgage obligations. At the end of 1982, 172,000 residential mortgages were in foreclosure proceedings, and our statistics do not indicate that the situation is improving.

In many cases, mortgage defaults and foreclosures have been prevented through the development of lenient policies promulgated by lending institutions. However, the expanding proportions of this problem demand congressional review.

Today's hearing will provide us with the opportunity to discuss this widespread affliction—which one of my colleagues has called a national mortgage default emergency—to determine what, if any, legislative assistance should be provided. Congress already has before it a number of legislative proposals designed to provide temporary relief to struggling farmers and homeowners. These solutions range from direct Federal funding to assist homeowners and farmers in trouble to a 2-year moratorium on certain types of residential foreclosures. Other legislative remedies include plans to encourage agencies to develop special forbearance programs through extended payment schedules.

Basically, our purpose today is to try and determine what the Federal responsibility is, whether we can meet it, and what the costs might be.

While we in Congress are concerned over the effect of defaults on the ability of individuals to retain their homes and farms, serious questions have been raised about pending legislative proposals and the ramifications they might have on lending institutions.

Our purpose today is to develop a general overview of the problem of mortgage defaults, to examine the legislative proposals currently pending in Congress, and to look at the bankruptcy laws to see how they may affect parties involved in foreclosure proceedings. We will hear from witnesses representing farm producers, the administration, urban homeowners, and consumer law groups, all of whom will help provide a perspective on the issues involved.

And now it is my pleasure to welcome our first group of panelists, speaking on behalf of farm producers.

I would like first to recognize the distinguished Senator from Montana, Senator Baucus. I think you would like to introduce the first panel; is that correct?

STATEMENT OF SENATOR MAX BAUCUS

Senator BAUCUS. Thank you, Mr. Chairman.

There are many problems facing agriculture in Montana today. Statistics show an alarming increase in farm failures and bankruptcies, and a precipitous decline in net farm income.

Agriculture is of vital importance to the State of Montana, the State of Kansas, and the entire country. The recent increase in farm foreclosures and bankruptcies is therefore a matter that we cannot afford to overlook. I commend you, Mr. Chairman, on holding this hearing and providing a forum for discussion of the extent of the problem and potential solutions.

Mr. Chairman, do you want to proceed with the witnesses at this time?

Senator DOLE. Right. Recognizing you may have other commitments, I thought you would like to begin by introducing the two Montana witnesses. We would be happy to open our hearing with their statements.

Senator BAUCUS. Would you prefer to have them testify as a panel or individually?

Senator DOLE. They can present their testimony together.

Senator BAUCUS. Why don't you both come up, Jo Ann and Jerry?

Senator DOLE. And maybe Mr. Miller, the president of the Ohio Farm Bureau would like to join them.

Senator BAUCUS. Mr. Chairman, first I would like to introduce Jo Ann Forsness. Jo Ann is the farm credit chairman of Montana's Women Involved in Farm Economics, more commonly known as WIFE.

Mr. Chairman, in the 4 years I have been in the Senate, WIFE has been one of the most effective organizations I have had the pleasure to deal with. WIFE is a group of women who not only have a deep interest in farm issues, but also get involved in doing something about them. They do not just sit back and complain. They organize, they have meetings, and they draft position papers. They are an extremely knowledgeable group, and I am very happy, to have Jo Ann here as their representative.

Jo Ann has been a friend of mine for years—she and her husband, Dewey, farm near Wolf Point, a strong agricultural community in the State of Montana.

Jo Ann, very happy to have you with us.

Accompanying Jo Ann is Jerry Daily. Jerry grew up on a farm in Montana. In 1963 he graduated from Montana State University, which in my opinion is the best land grant college in the country.

Jerry worked for the Soil Conservation Service, farmed in Chester, and is now with the Great Falls PCA, Federal land bank. He has been a manager of the Federal land bank for 4 years.

Jerry, we are very happy to have you with us, as well.

Senator DOLE. I think following the testimony of the two Montana witnesses, we will call on you, Mr. Miller.

Jo Ann, do you want to start?

STATEMENTS OF JO ANN FORSNESS, FARM CREDIT CHAIRMAN, WOMEN INVOLVED IN FARM ECONOMICS [WIFE], WOLF POINT, MONT.; JEROME G. DAILY, VICE PRESIDENT, GREAT FALLS PRODUCTION CREDIT ASSOCIATION, FEDERAL LAND BANK ASSOCIATION OF GREAT FALLS, GREAT FALLS, MONT.; AND DAVID MILLER, PRESIDENT, OHIO FARM BUREAU, REPRESENTING THE AMERICAN FARM BUREAU, WASHINGTON, D.C.

Ms. FORSNESS. Thank you, Senator Dole.

WIFE in Montana is pleased to be able to address you here today.

A little bit about my background. My grandparents and my husband's grandparents came to Montana in 1918, and homesteaded, and these lands are still in the family at this time. My grandmother was an original member of Production Credit and was the first woman from Montana to sit on the board. I have lived on a farm all my life.

On the cover of my testimony you will notice that the WIFE logo is in red, which is to remind you that we are still operating our farms deeply in the red. The black border is to signify our fear that we will no longer have the family type farms.

I have four major points, I guess. We feel that this is an economic problem, not just strictly a farm problem, and it does affect our urban neighbors as well.

Excuse my nervousness.

Senator DOLE. Do not be nervous. Many of us here today hail from farm country. We are happy to have you appear before the subcommittee, speaking on behalf of such an outstanding organization, one which has been very active in my home State of Kansas.

Ms. FORSNESS. Thank you. I am the farm credit chairman, and I have only been able to work in the area of FmHA because of the magnitude of the information coming in in that area. So I am not too familiar with the others.

I guess that is all I would like to say in the statement.

Senator DOLE. Thank you. I have before me a copy of your written statement which will be made a part of the record at the conclusion of your testimony.

Ms. FORSNESS. Thank you.

Senator DOLE. Mr. Daily, do you want to go next?

Mr. DAILY. Yes. Thank you, Senator Dole and members of the subcommittee.

The Great Falls Production Credit Association and Federal Land Bank, of which I am employed, is a joint farm credit organization that serves credit to 1,320 members. Our members are spread over 5½ million acres, in four counties in Montana.

In 1982 we loaned approximately $214 million to these PCA and farm members in our lending territory.

The testimony that I delivered to you people last week is a synopsis of what kind of a lending operation we have got today, as opposed to 1978, 1979. We pride ourselves in being a very aggressive Ag lender in our area, yet we hope that our lending standards and our lending administration is progressive as well.

We work very hard at maintaining an upbeat, a positive attitude among ourselves, with our farmer member clientele. We pride ourselves also in having 70 percent of our credits out to farmers and ranchers of 55 years of age or younger. And of the number of farms and ranches in our lending territory, we have got either a short-term, intermediate term or long-term mortgage loan, with 40 percent of the farmers and ranchers in our total area.

In 1979, our joint loans totaled $148 million. In 1982, they totaled $214 million. In a 4-year period, our total credits increased by 25 percent, and our organization is not as yet 50 years of age. So one can see the compounding effect of these borrowed dollars out to our clientele.

This growth was a result of all of the—of many of the inflationary factors that were prevelant in our entire U.S. economy. For instance, farm and ranch real estate in the four-State area of Idaho, Oregon, Montana, and Washington, from 1976 to 1982 increased by 75 percent. Equivalent farm power, purchases of tractors, farm power in that same era, increased 60 to 70 percent.

The price of commodities stayed the same in many cases, and in other cases fell, in an amount up to 30 to 33 percent. Our loan requests were very, very ambitious. We had many farmers and ranchers that wanted to expand their farms and ranches so that they could take sons or other members of the family into the operation.

In competition with that, we had many businessmen, investors, farmer and rancher investors, that were anxious to become a part of this farm and ranch game so that they could shelter dollars

through real estate appreciation. Quite often we were in a position to deny or reject these very, very ambitious credit requests, and were accused of playing God. By that, I mean, that when we denied some of these very ambitious credit requests, the applicant said, you know, you lenders are taking the position that you will not make us those loans.

We think that they are all right to be granted those loans, and to make those numbers work on those very ambitious loan requests, many times the applicant was very adamant that he wanted to project a price of the raised commodity that was far above the historical trend that we were used to.

Quite often, the very, very aggressive loan request projected a yield of farm commodities that was very, very far above the historical yield patterns that we knew.

But to make these credit requests work on a cash flow, these very ambitious projections had to be entertained. And it was these parties' position that if the cash flow of that loan did become endangered in 1 year or 2 years later, and there was a short-term credit buildup because the loan could not be serviced, so be it. We can always sell out, pay off the short-term lender, and with the inflation in the real estate market, we'll still have a healthy capital gain.

So that was the scenario that we—all farm credit lenders, probably in the United States, were enduring during this highly inflationary period.

In July, August 1981, all these inflationary factors came together. PCA interest rates, 15 percent; FLB interest rates, 13 percent; the prime commercial bank rates were in excess of 20 percent.

We in Farm Credit were trying to buy money on the bond market, and a couple of times had to lock ourselves in for 10 years, or a greater period of time, and buy that money at 17 percent.

It is our position that in July, August 1981, this bubble burst. The media has done a good job of editorializing the hard going that we, our member clientele are having in the farm sector today.

The testimony that I got has yearend loan quantity and loan quality results from the era that I am referring to. We are fighting even tougher credit today than we ever had before.

Our PCA volume, loan volume, is backing off. We see that as helping. Our Federal Land Bank loan volume has stabilized. We see that as helping.

Conversely, in the Great Falls area, where I work, we are not facing massive bankruptcy or foreclosure problems. We are very anxious that our PCA and loan quality stay sound. We need, above all costs, to maintain good access to borrowed funds. For the benefit of our farm member borrower, we need to keep loaning in an aggressive manner, yet a prudent manner. It is critical that we have the funds to refinance loans, extend terms, reamortize repayment programs. We need to, above all costs, keep working with our member borrower to develop a workable plan.

This workable plan, in extreme cases, may require members to sell off some assets so that the liabilities can be more in context with the assets. We do not see that as a sin, or as a defeat. This we see as sound business in 1983, during adverse economic times.

Thank you.

Senator DOLE. Thank you very much.

Mr. Miller.

Mr. MILLER. Yes, thank you.

I am Dave Miller, president of the Ohio Farm Bureau Federation, and also a farmer from the State of Ohio, and I am testifying today on behalf of the American Farm Bureau Federation.

Mr. Dole, members of the committee, it is an opportunity for me to testify today. I never had it before, and I appreciate this opportunity.

The American Farm Bureau Federation is the largest of all the organized farm organizations in the country, with over 3 million members, organized in 48 States and Puerto Rico, and it is interesting that in our organization, we have producers, about all commodities grown in this country, and our policies are developed from the county level to the State level, to the national level. We feel we have a very good reading of our people about how they feel about different problems.

The problem of moratoriums and foreclosures, and particularly foreclosures from the Farmers Home Administration, has been one that has been in the press quite a bit, and alluded to, and made quite a case about. But when it really gets down to the actual facts, the truth of the matter is that there has only been, out of the 270,000 FmHA loans that they have with farmers, there has only been 844 cases where foreclosures have actually been put into effect, which is three-tenths of 1 percent.

Also, it is true that a lot of people have gone out of business. There have been a lot of bankruptcies, people have sold out on their own, and one thing or another, but overall, when it is all said and done, and this being the third year of low prices for agriculture, and low farm prices, when it is all said and done, FmHA has still been able to work with pretty near 97 percent of the people. Only about 3 percent of the people have been out, and they have not been able to work with them.

So the problem sometimes has gotten blown out of proportion a little bit. And a lot of Congressmen think that maybe this 97 percent record is not good enough, and there is a lot of legislation now to have moratoriums, mandatory moratoriums, on foreclosures, and mandatory deferred payments of interest and principal for 1 year. The Farm Bureau opposes this type of legislation for mandatory provisions.

One of our reasons for being against moratoriums on foreclosures and deferral of interest and principal for 1 year as a mandatory thing is because we are concerned that borrowers that could make their payments may not make them and, because of this type of situation, use the money for something else that costs more.

It has also been estimated that this could cost the Federal Government from 1.4 to 1.6 billion additional dollars to have this type of legislation. It is also unfair to people that borrow money from private sources. There is still 88 percent of the agriculture credit which comes from our farm credit system and from private banks, which would not be affected by this type of moratorium legislation. So it is a real concern.

What I think might be a better approach to take would be one to try to improve the service that the Farmers Home Administration

provides. They are under a real strain in most offices across the country, as research will show. One loan officer for the Farmers Home Administration has twice as many accounts to take care of as a loan officer for a private bank, which can be a real problem, and it is a real headache, and there is a lot of adverse publicity because they just cannot possibly physically get the work done. That and the fact that they have to make loans for houses and other types of projects that are nonagriculture related takes some of their time, so they cannot put their full focus of attention to the farm problem, and we have had testimony from the people that have indicated that this is a problem, that service might be better, that the farmers need to have the answer as to how the loan is going to be worked out, long before April and May, when it is time to go to the field and plant their crops.

I only want to say again that we are opposed to mandatory deferrals of payments and to moratoriums on foreclosures, and we think that maybe better service by the Farmers Home Administration to do their job is desirable. The purpose of the Farmers Home Administration originally was to help the farmer who was stricken and has a problem in his operation, whether because of bad economic times, and hopefully if they are staffed better, maybe they could get that job done without having to have this severe legislation.

I want to thank you for this opportunity to be here.

Thank you.

Senator DOLE. I want to thank all of the witnesses.

I will yield first to Senator Baucus, because he is from Montana.

Do you have a question?

Senator BAUCUS. I do, Mr. Chairman.

Jerry, I'd like to play devil's advocate for just a minute. You do not suggest that financial institutions have caused part of the problems, but you did say that often potential borrowers would come in and think that they have a right to a loan, but they projected, in your estimate, unrealistic yields or unrealistic conditions.

Has this been a problem? Have too many financial institutions, in your judgment, said yes when they should have said no?

Mr. DAILY. Senator Baucus, I would relate to that question in this manner.

Very, very aggressive loan requests that we have denied or turned down, in many instances our applicant, and sometimes our long-term member, went across the street to another lender and was successful in accomplishing his negotiation for credit.

In the raging inflation that was going on from 1976 to 1979 or 1980, many times he was granted that credit, got into a short-term bind, sold his property out, made a real capital gain, and came back and told us, I told you so.

We attempted to not get off our lending principles and policies with that type of a scenario happening, but I can say that all lenders were affected by that competitive request for borrowed funds.

I would like to think that credit lenders were not categorically responsible for the dollars that are loaned out.

Senator BAUCUS. I am sure they are not categorically responsible. I am just trying to get a feel for the issue.

Do you think that lenders have acted in the right way in deciding whether to provide credit, or do you think they have been a little too lenient, or a little too tight? I am just curious.

In other words, do you think lenders, by and large, have been acting in just about the right capacity, generally providing credit where it should be provided and not providing it where it should not be provided?

Mr. DAILY. OK. We never loaned $1, that I am aware of, that our member or applicant did not ask us for.

When the inflation got the hottest, 1979, late 1980, we can see today that some of those credit requests should not have been granted. We think there are a couple of times that we made a mistake with our applicant on credit extension.

Senator BAUCUS. Let me ask you a question, Mr. Miller.

You suggested that it would be inappropriate to allow any deferrals for Farmers Home loans, or any moratorium on Farmers Home foreclosures. Do you say that as the matter of principle that should be adhered to in all circumstances, at all times, regardless of the state of the farm economy, or do you say that just at these times the farm financial picture just is not bad enough to warrant any deferrals, or any moratorium, regardless of the individual circumstances of the individual farmer?

Mr. MILLER. Well, I think any kind of moratorium legislation, wherein you get involved with a private contract between a borrower and a lender, any other kind of contract can be devastating with that kind of stuff threatening, not only from the Farmers Home Administration, but in the private sector also.

I would be against moratoriums, foreclosures, and deferrals of interest and principal at any time.

Senator BAUCUS. Regardless, even if conditions were much worse than in the 1930's—say there is another Russian grain embargo—would you say even then there should be no deferral of interest?

Mr. MILLER. I cannot say what if. I mean, it is true that whatever happens down the road we are going to have to deal with the problems down the road when they happen. But under the circumstances today, I do not think that we are at that point today.

Senator BAUCUS. Why do you think that we are not at that point today?

Mr. MILLER. There are 844 foreclosures out of 270,000 loans in fiscal year 1982. So that is not at the point, there are ways to work around it.

The Secretary of Agriculture has discretion to defer interest, defer payments, and to redo loans, and whether to or not to foreclose on a particular loan, and since he already has that discretionary power, why do we need legislation to make it mandatory, and having people take advantage of it, that maybe should not necessarily take advantage of the situation?

Also, the borrowers that are making payments, and they are doing their job, are affected by this, especially when it gets to moratoriums on private contracts.

Senator BAUCUS. But do you think that the Secretary should never exercise that discretion?

Mr. MILLER. No, I think he should.

Senator BAUCUS. So in some cases the Secretary should use his discretion?

Mr. MILLER. Yes, and has. They have done it in cases where they are convinced that the farmer has a possibility of making the payment and coming out of the situation.

A lot of times you hurt a farmer worse by deferring—if you defer a foreclosure forever, if they cannot possibly work out a situation, you use up all the man's net worth.

Senator BAUCUS. Should deferral policy with respect to Farm Home loans be a little more lenient than with other kinds of loans? I ask that, because as you well know, farmers are subject to the vagaries of markets, weather, and many other circumstances that are beyond their control. They do not know whether it is going to rain or not rain on their crops, or whether it is going to rain or not rain on their neighbors' crops. There are innumerable uncontrollables for farmers, whereas most businessmen have a little more control over their destiny and future. They have a greater ability to pass on their costs.

Recognizing that, do you not think that USDA should perhaps take those circumstances into consideration in deciding whether or not to defer interest, or whether or not to place some kind of a moratorium on a foreclosure?

Mr. MILLER. Yes. I think you make a very valid point. The thing we want to remember is that exactly what you state is why I perceive the Farmers Home Administration was designed in the first place, to be the lender of last resort, when someone is in these dire straits, they will loan money with a less equity base behind it than a private lender will, or Federal credit people will, and they are more lenient terms, with longer years, and have deferred payments, and have done just what you said, and that is their exact reason for being in existence.

But there does come a point where the end has to come. In a lot of cases, no matter what the terms of agriculture are, and the problems that we have, I guess we are not interested in making it a Federal law that everybody has to make a profit.

Senator BAUCUS. I do not want to take too much time here, but, Jerry, could you define where you think that point is—where that line is drawn? To what degree should Farmers Home Administration, for example, be a lender of last resort, and to what degree a lender of last resort? I know it is a tough question to answer, but I am curious what your opinion is.

Mr. DAILY. The FmHA is a lender of last resort. They have done a tremendous job of getting young farmers started, they have got liberal loan policies that enable them to get younger farmers started.

Persons that are established farmers, that suffer a significant loss through market conditions, weather conditions, political factors that affect our business, sometimes are no longer granted credit in the private sector, and are referred to the FmHA, and in my opinion, the FmHA is doing a real, real fine job with the resources that they have got.

The resource that I see as being most limiting is manpower. They do not have adequate manpower to service the tough credit

they are trying to administer. They need more manpower. They need dollars.

In Montana, right before I left for Washington on Friday, I talked to an FmHA supervisor, and he said here we are, the middle of March, and we are already into our third and fourth quarter allocation of loanable dollars in Montana. We need to make sure that we have got the dollars so that we can bump and roll with our present loan clientele, so that we can service the credit that we already have got. We loaned those dollars, and we need time and maneuverability to get that money back.

Senator BAUCUS. Mr. Miller, I see you nodding your head in agreement.

Would you agree that the Farmers Home needs more manpower?

Mr. MILLER. I certainly would.

Senator BAUCUS. And also more dollars?

Mr. MILLER. As far as the dollar amount, I do not know.

Senator BAUCUS. You do not know, but at least you think the——

Mr. MILLER. But their manpower, they are very short, people wait a long time, and I think when you visit their offices, they are struggling and working hard, trying to process the loans, and take care of the many applications that they have, and they just are not able to get the job done in a timely basis, and this is, of course, very frustrating for the borrower when he is kind of up in the air, and does not know what the result is going to be.

Senator BAUCUS. Joanne, I assume you agree with that, too, that we need more manpower and more dollars?

Ms. FORSNESS. Yes. Mostly what we need is a price for our product.

Senator BAUCUS. Both of us up here agree with that.

One last question.

How do we avoid this kind of problem the next time around, that is, the next cycle? In the past we had high interest rates, lending values have gone up, many farmers have borrowed against the high land values, still it is a cash flow problem, and then the price, as you point out, Joanne, for the product has been there.

We would all like to have higher prices for the commodity, and I am very hopeful that the PIK program will help a little. There are also other actions that we can take, figure out ways to boost exports, et cetera.

Let us hope that there is economic recovery in 1983, 1984, and 1985, and let us hope that interest rates come down, and let us also hope that the inflation rate stays at the low level it is today, and let us also hope—there are a whole series of hopes here—that we can get a decent price for wheat feed grains.

But even if all these events occur, I can see us in perhaps 10 years finding ourselves in somewhat the same situation we are in today—land values up because of inflation, and interest rates up, and many farmers facing bankruptcy.

Do you have any general suggestions of how we might avoid this problem in the next cycle?

Ms. FORSNESS. I am curious about what we are going to do about it this time. I am not smart enough to know the future. I feel there is a definite lack of consistency in the offices of the Farm

Home Administration, and the figures on foreclosure I do not feel tell the whole story.

There is an awful lot of other ways that farmers are put in a bind because, other than foreclosure, for instance, withholding of funds, your funds do not come for a year down the road on things that farmers want to buy, and that sort of thing. That I have heard from people all over the United States, and that seems to be a real problem with them, with the Farmers Home.

I think we have some very, very good offices. We have some that are probably borderline. I spoke with the district director just before I came, and he said it is going to be next to impossible to show payback ability on any of the loans. He did not say the bottom 10 percent, or the middle. He said on any of them this time.

Senator BAUCUS. Jerry?

Mr. DAILY. Senator Baucus, my attempt to answer your question, what do we do the next time around——

Senator BAUCUS. To prevent the next time.

Mr. DAILY. To prevent the next time around.

Our society, our grandfathers and fathers can tell us about the dirty thirties. We got out of those dirty thirties, World War II came along, and we had nothing in that 50-year period except up prices, inflated prices, and those of us in the business sector today, those of us on the farm and the ranches today only have vague memories, from talking to our grandfather or our father about how tough it was.

Now we have experienced, we have experienced a down draft, a significant down draft today ourselves, in the last 18, 20, 24 months.

I would like to think that the member borrower we have got can see that there are some times he was too liberal, too aggressive in his thinking. I would like to see that we, as lenders, can work harder with a credit counseling program with our members, and we can now see the evidence of a down draft.

All we could know about a down draft in prior years was what was in the history books, or what our dad or grandfather told us. We will be wiser the second time around.

Senator BAUCUS. Do you think so?

Mr. DAILY. Yes.

Senator BAUCUS. I hope so.

Thank you very much, both of you, Joanne and Jerry, for coming, and I know we will be talking about these matters on down the road, but thank you very, very much.

Senator DOLE. Thank you, Senator Baucus, and I want to thank the witnesses. I think you have all focused on the nature and extent of the problem.

Our purpose today is to determine what the Federal responsibility should be and how far it should extend. Should we focus on Government programs like the Farmers Home Administration or are we prepared to take a more far-reaching approach that would encompass the private sector?

I think, Mr. Miller, you indicated about 80–88 percent farm credit still in the private sector. How are the private banks administering their credit policies? Are they exercising lenient forebearance policies and refinancing consumer loans, allowing the consum-

er to take advantage of the lower interest rates brought about since 1980? The rates have dropped from 17 to 12 percent, and we hope they come down more. The consumer would be spared further economic hardship if the banks were able to refinance at the lower rate. Is that possible?

Mr. MILLER. Yes, I think they are working the Farm Credit System, and our private banks are working as hard as they can to work with people that they feel have a possibility of working out of this situation. Of course, the lower interest rate is the greatest help that you can possibly have. It is a tremendous thing to have this happening.

Senator DOLE. Plus the lower inflation.

Mr. MILLER. And a lower inflation rate.

Senator DOLE. It may not directly affect price; however, if we still had the higher interest rates and the higher inflation at the same price, the farmer would really be in difficult economic straits. But I think we have seen some improvements in the past year, partly as a result of changes in the PIK program regarding how we treat the land, State tax changes, and liberalized assistance programs.

There is no lack of concern for the American farmer. I think most of us understand the old maxim which says that if you do not eat, do not worry about the farmer. Most people eat, we all eat, although it may be true that Senator Baucus and I and others who represent farm States may have some more interest than some Senators or House Members. I think we must stop to recognize one fact, and that is that more credit is not always the solution to a farmer's problem.

There is always a rush around here to see whether we ought to give them more money for more credit or whether we ought to defer moratorium on foreclosures. At today's hearing, we are trying to determine which of these solutions, if any, are appropriate.

Congress has taken steps to alleviate the farmer's plight through expanding our embargo policies and the PIK program, which we believe will be helpful. It may be costly. During the past few years the price of farm-support programs has nearly doubled or tripled. This increase makes clear that the Federal Government has not cut back on agricultural assistance programs. We have been paying more, because target prices are, frankly, too high, based on inflation.

We are trying to formulate a more corrective export system, in order to keep the farm prices up. Jo Ann said that the key thing is to maintain farm prices. Farmers are watching prices, inflation, and interest rates.

Jo Ann has mentioned a specific provision, and that is whether or not Public Law 96-41 should apply to Farmers Home Administration appeal proceedings. Frankly, I have not focused on that, but we will, since you have raised it in your testimony.

Ms. FORSNESS. Thank you.

Senator DOLE. Mr. Miller?

Mr. MILLER. Senator Dole, I think what you say is tremendous, and my concern is that you really have helped put through some aggressive programs that can be very effective. The whole field of

the—in fact, the embargoes did not work until we learned from that that it did not work.

The PIK program I think is tremendous, and going about the problem, because agriculture has to be economically sound, and that is why I hope we do not do some rash thing as far as getting into the contracts that people have with their lending organizations when we have on the horizon ways of working out this problem.

That is—the ultimate is critical to have agriculture be a profitable enterprise, and not only the PIK program, but some conservation programs in the future. We are going to have to make sure that our production plant does not overproduce itself again, and that we have maybe a conservation reserve, or some sort that is out of production, and we have to monitor that. If we can expand world trade, and get out markets back in Europe, and some other parts of the country, I think on the horizon things look kind of exciting.

When we got into this trouble, it was alluded to here, not only in your question, Mr. Baucus, that not only were the farmers out of step, going too far, the lending institutions were going too far, the fertilizer plants were building too many plants, and everyone was on this big roll, and they are kind of all in the barrel together, and the bottom fell out of the barrel, but I think there are some things on the horizon that make the future look exciting, without some desperate plays as far as——

Senator DOLE. What is the rate of signup in Ohio and Montana on the PIK program; is it fairly high?

Mr. MILLER. We are not supposed to know that yet, but just from what I understand it, I think it is pretty good in Ohio.

Mr. DAILY. Where I am from, in Montana, it looks very, very encouraging; aggressive signups in the triangle area of Montana.

Senator DOLE. You know that we changed the tax laws so that that could be carried over to the next year. It made a big difference. Many farmers were going to get out of the program, and I understand on Friday many were lined up to get into the program because of that change. Secretary Block indicated that.

I would like to thank the witnesses. We appreciate your statements. We know that some of the very aggressive borrowers have placed a lot of pressure on men like yourself, while others must make the determinations. It is not easy to say no, I guess, is it? You do not want to say no to anyone.

Mr. DAILY. Well, where I am employed, if I take my paycheck, and I am going to take that, I have got to have enough intestinal fortitude to make a negative recommendation to the loan committee I have got on these cases that do not appear prudent.

The other side of the coin is a member, a borrower, an applicant will say how do you know what I can do. You are not going to give me the chance to find out. Do you mean to tell me that from you sitting—in your position on that side of the desk, you say my program will not work?

Our policy has been to look, recommend, counsel, test and try to work with our clientele until we can find out what he can do with the unique set of circumstances that he has got.

20-231 O - 83 - 2

Senator DOLE. Obviously our problem derives from the high delinquency rate, 25 percent as indicated at the end of last year. An upward swing in the economy will probably do more to improve the situation than we can do through some Federal legislation. If the prices come up, the interest rates and inflation stay down, and we find some markets, the picture should look brighter. Jo Ann, what is your primary goal?

Ms. FORSNESS. The banks in the town where I live are not loaning money for farm ownership, and have not for 1 year, and probably will continue not to do so until things improve enough for the—and then when things improve enough, I assume that they will begin lending again.

Senator DOLE. I would be interested to learn what interest rates are, where they are making farm loans, and what the private sector rate is? I am sure Mr. Naylor knows. He will be a witness later on.

Ms. FORSNESS. Operating 17 percent.

Senator DOLE. Still 17 percent? Has that gone down in the last 12 months?

Ms. FORSNESS. No, I do not feel it will go down a great deal in the banks in our area, because—well, these things are done because of the way they have extended themselves. It will not go down appreciably.

Mr. DAILY. Senator Dole, in the area that I am from, PCA operating loans is 13 percent. Commercial banks are down, competing very hard with us. We have lost some very large accounts within the last 10 days, 2 weeks, to the commercial banks, at a preferential rate.

The Federal Land Bank rate is 13 percent, the larger insurance lenders on mortgage, on real estate mortgages, are now back. They are somewhat in and out. They are now back at 13½, 13.8 percent.

Senator DOLE. That is encouraging.

Mr. MILLER. Our PCA rate is 12.75 in my county back home, on an operating loan, and the same thing is happening in Ohio. The commercial banks are getting very aggressive in agricultural lending.

Mr. DAILY. One more comment, Senator Dole.

Senator DOLE. Sure.

Mr. DAILY. Inflation is down, interest is down, the price of farm implements are down. We see the price of fertilizer coming down in some cases. Our free enterprise system can correct a lot of past ailments.

Senator DOLE. We do not pull the cork around here and let everything go back. It is pretty hard for us to say no to any group. That is why I ask if it is hard for you to say no. We find it hard here to say no.

Senator BAUCUS. Pretty hard here.

Senator DOLE. We are spending your money, we are not spending our own money.

We appreciate very much your testimony. We are going to pursue this issue and see if in fact there is some proper approach that we can determine without getting the Government involved in the private lending. I am certain it is in the banks' interest for

farmers to succeed. They are going to do everything that they can in the private sector to make that happen.

I would hope the Farmers Home Administration will do the same. Mr. Naylor will testify later, and we can address some of the concerns that you raised about shortage of personnel. I hope you are not in any hurry to leave. We will be on in about 10 or 15 minutes.

Thank you very much.

Senator BAUCUS. Mr. Chairman, just one question.

Jo Ann mentioned better commodity prices, and Mr. Miller suggested that we do not get in the area of deferred interest, moratorium support, and you, Jerry, recommended perhaps giving Farmers Home additional personnel, manpower.

Is there anything else that comes to mind? Do you have any other recommendations for us now, that the Congress should or should not do to help the present plight of the farmers generally?

Mr. DAILY. The PIK program, we have got real guarded optimism. We are anxious for the PIK program to work. We think that it has got a chance to work.

Senator BAUCUS. You suggest we keep working with PIK?

Mr. DAILY. Yes.

Senator BAUCUS. Anything else come to mind to help the present financial plight of the farmers?

Mr. DAILY. Do not pull back, do not pull back the lending that we have got today. Continue to fund it at that level so that it can succeed.

Ms. FORSNESS. Some clarification of the rules and regulations from the Farmers Home might be beneficial to the farmers.

Senator BAUCUS. Too much redtape, too much confusion, too much ambiguity, is that what you are saying?

Ms. FORSNESS. It is the burden of the farmer to know the regulations, and for a farm wife, such as myself, to read the CFR, something like that, it is a bit difficult to know what your benefits are, and so forth.

Senator BAUCUS. Thank you very much.

Senator DOLE. Thank you very much. We appreciate it.

[Statements submitted by Ms. Forsness and Messrs. Daily and Miller follow:]

Prepared Statement of Jo Ann Forsness

Senator Robert Dole, Members of the Senate Subcommittee on Courts, Montana Women Involved in Farm Economics is pleased to address you here today. The issue of Farm and Home Foreclosure, the subject of these hearings is vital to all rural America.

Grandparents of both my husband and myself came to Eastern Montana to homestead in 1910 and 1918, survived the depression of the 30's and these farms remain in the families at this time. My grandmother, a charter member of Production Credit Association, was the first woman to sit on the PCA board in Montana.

My testimony comes to you in a folder with the logo of WIFE in red to remind you of the fact that we are STILL operating our farms deeply in the red. Also you will notice the black border signifying our fear that the death of the family farm, affecting urban America through greatly increased prices and a probable interruption of an otherwise stable supply of healthy nutritious food, is eminent.

The economic disaster facing American agriculture comes as no great surprise to those who have read the "FLANNIGAN REPORT" (prepared in 1972) there appears to be a coralation between the guide lines set forth in this report and the USDA farm programs of the last several years.

One result of this economic disaster is a reduction of net farm income in Montana from 245 million in 1978 to .8 million in 1981. Montana statistics placing her near the bottom nationally. Allowing for the drastic nature of the statistics, Montana compares favorably with other states in number of foreclosures and bankruptcies due to the very size of family farms. Most farmers have not used up all their equity as yet. However, WIFE, feels there should be no farmers forced out of business when agriculture is not being paid.

History seems to show the depression of the 30's was caused by low farm prices, not over-production, resulting in depressed farm income. The depressed farm income curtailed buying power for goods and services other than food, creating high unemployment, serving to lessen demand for farm commodities. Of all sources of new wealth, farming, mining, timber and fishing, agriculture is the largest, providing about 70% of new wealth created each year.

When gross farm income declines, the result is a seven fold decline in the national income (national income equals gross farm income times seven). The solutions to agricultural problems are not more subsidies or loans, rather a fair price for all raw materials production. If the proper price is paid for all raw materials, we create the inflation free income to consume the production. Agricultural prices on the average are 42% of what they should be in order for agriculture to achieve parity. The record of the past

reveals that at a parity price level there has never been depression or unemployment in the United States, also a dole from the government was unnecessary. Depression has not been caused by a failure of harvest or by the unwillingness of our people to work, or by lack of production, it was due to our inability to maintain the value of commodities in terms of dollars.

There has never been a depression in the United States unless it was preceded by falling farm prices. After all attempts to rid the nation of surplusses in the 1930's, we came to 1942 and found the nation could not feed itself.

We in agriculture have done what we can to help ourselves, through economy measures, cutting purchases of goods and services reflected negatively in the economy of Montana.

Farmers who have been forced to sell their tractor or their livestock, of course cannot continue to make payments when the means of creating a cash flow are gone. Often two families are affected adversely when foreclosure is faced, parents having sold farm to children as a means of retirement and young farmer in danger of losing farm.

When speaking with people through out nation I am told that most cases of foreclosure are almost identical, one would only have to change the borrowers name.

With regard to FmHA, borrowers feel there is a tendency to misuse the criminal process throughout the land as follows:

1. Destruction or withholding of borrowers records.
2. Altering of official documents.
3. Denial of due process of law.
4. Borrowers state that FmHA has engaged other government agencies in foreclosure actions.

Equal access to justice act (P.L. 96-481) does not apply to FmHA appeal proceedings. Why is this so? People who are going broke through the lender of last resort, considered by congress to be a social welfare program, have no place to turn for legal aid when they feel they have suffered wrongs at the hands of this lender. Borrowers feel at this time this situation exists through little or no fault of their own.

The fate of agriculture rests squarely with you gentlemen. If our great nation is to see a sustained recovery, Congress must find the courage to change those things that must be changed to assure parity for agriculture. Agriculture being the foundation upon which this nation is built. Thank You.

Prepared Statement of Jerome G. Daily

I will limit my remarks to my own Associations' territory, which I am most familiar with. However, I do have some statistical data relating to all associations in Montana.

Our lending territory includes a four (4) county area of Cascade, Chouteau, Teton and Lewis & Clark Counties in North Central Montana, east of the Continental Divide. This area encompasses approximately 5,447,259 acres that constitutes 2,088 Class I-V commercial farms and ranches (full time farms).

The Great Falls FLBA has real estate loans on 40.4% of these total farms and ranches, while the Great Falls PCA has an annual operating loan or intermediate term loan on 39.9% on these same total farms and ranches.

Our four county territory is a very strong agriculture area, with a mean annual rainfall of 12.5 inches/annum. The Missouri River flows thru the center of the territory in a northeasterly direction. The Sun River and Teton River flow thru the western portion. The soils are generally fertile and productive in a year of adequate moisture. Approximately 20% of the territory is irrigated. The ownership is generally third and fourth generation families. Major commodities produced are small grains, livestock, alfalfa hay. Below--------the statistical data indicates that the owner-producers of this farmland that are members of the Great Falls FLBA are of the following age groups:

Age Group	Percent Membership
under 35 yrs	23%
35-55 yrs	46%
56 & over	18%
undertermined	12%

The Great Falls PCA/FLBA is known as an aggressive agriculture lender as evidenced by its documented 40% membership penetration and growth pattern for the last 15 years.

The Board of Directors is made up of five (5) elected farmers or ranchers and represent the various commodity groups as well as geographical areas.

The Staff is made up of 26 full-time people, including 13 loan officers and executives, and 13 clerks and support personnel.

Loan Volume has grown as follows in this joint Association.

	1979	1980	1981	1982
PCA	$ 71,368,802	$ 81,994,837	$101,224,716	$106,050,462
FLB	79,923,315	91,021,836	98,783,646	108,465,494
	$148,292,117	$173,016,673	$200,008,253	$214,515,956

There are a multitude of reasons why the demand for agriculture credit has spiraled upward. A few of these reasons are as follows:

1. Present producers expanding by buying nearby farms, so as to bring sons or relatives into the operation.

2. Carry-over effect of the Russiaon wheat sale of 1972 is still evident. At that time producers were encouraged to seed "fence to fence," and a lot of newly broken land was brought into production.

3. Land is a finite resource with the world population still expanding at a rapid rate it appeared there would be a continuing good export market.

4. The US inflation rate continuing upward until it peaked at 13.5% in 1980, made land seem a good hedge against further inflation.

5. Purchase of land and farm implements and improvements were an excellent way to "shelter" unassociated business and personal income.

6. There was an abundance of agriculture credit available to borrowers.

7. Being close to the soil, is an American dream.
   A free and in charge of your own destiny feeling.
   A desire to capture our romantic past.

It appears, now in retrospect, that the credit binge peaked in the Great Falls PCA/FLBA in July or August of 1981, or 20 months ago. The PCA interest rate was approaching 15%, the Federal Land Bank interest rate was near 13% and the local Banks "prime rate" was over 20%, which forced the Farm Credit System into competing for purchases of new bonds at a rate in excess of 17%. Land was becoming very high priced, machinery costs had doubled, however, crop yields were abundant. A partial embargo on U S grain sales to the Soviet Untion caused a collapse of the grain market and a global recession began settling in, with the usual effect of less red meat purchases and demand for farm products.

We are today, working everyday in the midst of a agricultural industry retrenchment. Borrowed agriculture dollars lost their appeal 14 to 16 months ago as the very able producers could not see where the previous level of credit would be advantageous. High interest rates were devasting and demand for produced commodities was dissipating rapidly as U S agriculture exports were dropping as shown below:

Total U S Agri Export

1980-81 - 43.8 billion
1981-82 - 39.1 billion
1982-83 - 36.0 billion (est.)

We are now working with a few member/borrowers to reduce their debts through sale of land, increasing income, or whatever means to turn their loans around. The producer that has good equity in his business and is well experienced has already pulled back on his "wants" and additional purchases, and has reduced his debts. The producers with less equity have attempted to change their operation, to borrowing less for expenses and may have sold some assets to "scale back." Our PCA/FLBA loan officers, and director loan committee are maintaining an aggressive posture to continue financing operations that have a better than average chance of survival and where continued lending seems prudent.

The marginal producers and the highly leveraged producers, those unwilling to recognize their problems, will probably go nearly or entirely out of the farming/ranching business. This is unfortunate, but an economic necessity in our free enterprise society.

There are no absolute guaranties for the farmer/rancher, lenders, or any other business. The producer or businessman risks his equity and the lender risks his capital. Failures always have and will continue to occur due to factors that may or may not be foreseen. Farm and ranch liquidations are usually the result of personal failure and that is the stark reality to this business. Even though the pain is great to both the producer and the lender. If farming and ranching were without risks there would be a never-ending surplus of agriculture commodities and a surplus of agricultural producers. Everyone would want to go ranching or farming.

The 1982 year end loan volume of the Great Falls PCA was down from $72,494,033 in 1981 to $68,489,432 and has dropped further, down to approximately $62,000,000 today. The percentage of adversely classified loans in March of 1982, was 30.1%, whereas it was 16.3% and 16.7% in 1981 and 1980 respectively.

The 1982 volume of Federal Land Bank loans is maintaining a consistent growth pattern, however, adversely classified credit in 1982 was 4.5 percent of volume, whereas it was 2.1 percent in 1981 and 1.8 percent in 1980 respectively. Great Falls FLBA delinquencies are up to .76 hundreths of one percent by volume at the end of 1982, whereas they were .56 hundreths and .27 hundreths of one percent in 1981 and 1980 respectively.

The Great Falls PCA had loss loans and charge-offs in 1982 of $683,088 and none in 1981 and 1980.

Foreclosures by the Great Falls PCA and FLBA were 2 in 1982 and none in 1981 and 1980.

Success in farming and ranching is the reward for living within your means and making consistently more good decisions than poor decisions. The farmer/rancher lives and works with a complex, a business, i.e. soil, weather, eratic commodity prices, local, national and international polictical situations and it has never been easy.

The Farm Credit lender, also, either performs in a professional manner, with a positive attitude toward agriculture more often than not, or the free enterprise society replaces him as well.

In conclusion, I believe our local agriculture economy has bottomed out and is now in a position to build a recovery. Our statistics and sales data indicate that land has held its value. The cost of money, fuel and related production costs have come down and have left our producers with less expenses. Major farm implement prices are down considerably and the "Payment In Kind Program", which allows producers to receive CCC stored grain in return for reducing acres in production, thus cutting our surplus production and reducing operating costs, looks promising.

We see some optimism in the current economy with inflation under control, relief from surpluses in sight and cattle prices much stronger than a few months ago.

* * * * *

February 18, 1983

Selected 1982 PCA Statistics

Montana

1. Loans made — $777 million...$26 million decrease...3.2% less than last year.
2. Loans outstanding 12-31-82 -- $456 million...$9.9 million less than 1981...2.1% decrease.
3. Members served — 5,842...94 more than 1981...1.6% increase.
4. Average loan made -- $133,069...$139,761 in 1981...$6,692 decrease.

	No. of Loans
Montana as of (12-31-82)	4,992
Montana Past Due Loans	93
Montana Foreclosures	5
TOTAL	5,090

Land Value Changes in

Montana - Oregon - Idaho - Washington

1982	- .61%
1981	+ 4.00%
1980	+ 10.25%
1979	+ 15.30%
1978	+ 17.30%
1977	+ 12.00%
1976	+ 14.40%

Source: FLB Real Estate Value & PMV Reports.

WEIGHTED AVERAGE CHANGE IN LAND VALUES IN MONTANA - 1982

ASSOCIATION	LAND IN FARMS[1/]	OVERALL CHANGE
Montana		
Billings	6,666,203	+5
Bozeman	5,852,523	0
Conrad	3,306,206	0
Glasgow	3,508,116	0
Great Falls	5,447,259	+4
Havre	4,142,575	+3
Lewistown	5,883,953	0
Miles City	10,537,198	-5
Missoula	2,787,685	0
Sidney	7,824,600	0
Total	55,956,318	+ .27%

GREAT FALLS FEDERAL LAND BANK ASSOCIATION

Loan Numbers By Age Of Applicant

	1978	1979	1980	1981	1982
Under 35 Years	31 - 36%	15 - 9%	27 - 9%	23 - 15%	9 - 5%
35 - 55	49 - 42%	40 - 47%	46 - 38%	34 - 32%	40 - 41%
56 - Over	17 - 17%	16 - 34%	18 - 14%	14 - 30%	16 - 26%
Blank	2 - 4%	7 - 11%	22 - 39%	12 - 23%	13 - 28%

Five Year Trend

Under 35 Years	105 - 13%
35 - 55	209 - 40%
56 - Over	81 - 24%
Blank	56 - 23%

* Percentage by dollar volume

FEDERAL LAND BANK ASSOCIATION

of GREAT FALLS

Annual Mortgage Loan Closings

Delinquencies

Date	Great Falls		Montana	
	No.	Vol.	No.	Vol.
12/31/82	5.36	.76	3.99	.46
12/31/81	6.02	.56	3.51	.32
12/31/90	5.11	.27	3.01	.24

Adversely Classified

			% #	% Vol.			% #	% Vol.
12/31/82	29	4,651,441	2.7	4.3	214	30,647,715	2.3	3.5
12/31/81	21	1,931,236	2.0	2.0	162	19,404,423	1.8	2.5
12/31/80	16	1,404,507	1.6	1.5	140	15,713,447	1.6	2.3

Foreclosures - Loans Called During Year

12/31/82	1	24
12/31/81	0	11
12/31/80	1	8

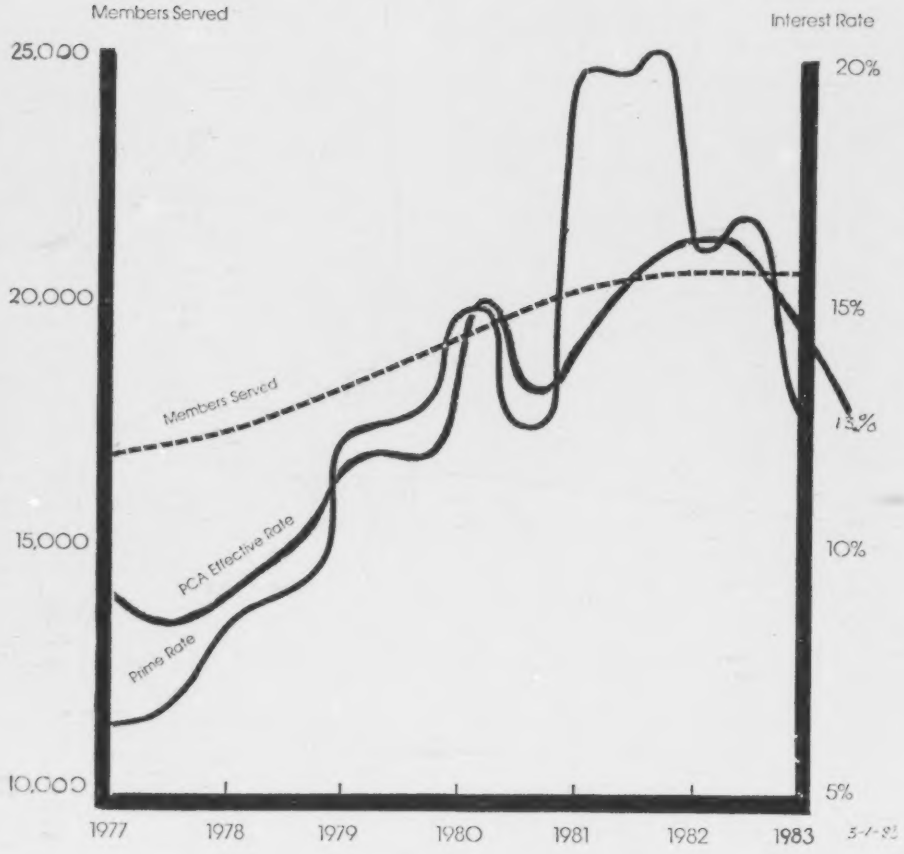
Foreclosures - On Books

12/31/82	1	24
12/31/81	0	14
1/31/81	0	7

30 Production Credit Associations

Interest Rate Comparison with Members Served

Montana - Oregon - Idaho - Washington



GREAT FALLS PRODUCTION CREDIT ASSOCIATION

Credit Quality Trends

Year	Acceptable	%	Problem	%	Vulnerable	%	Loss	%	Charge Offs	%
1982	48,595,307	69.9	18,474,429	26.6	2,441,196	3.5	49,819	.1	633,269	.01
1981	51,311,392	83.7	9,908,437	16.2	- 0 -		58,587	.1	15,000	
1980	39,949,253	83.3	7,758,438	16.2	248,599	.5	- 0 -		- 0 -	

1983
Foreclosures - 1
Bankruptcies - None

MONTANA

1982	346,791,841	72.5	122,433,794	25.6	8,679,850	1.8	448,704	.1	1,288,398	.003
1981	383,797,938	85.6	61,962,271	13.8	2,138,225	.5	274,351	.1		
1980	321,332,102	89.2	38,008,904	10.6	368,453	.1	517,116	.1		

1983
Foreclosures - 5
Bankruptcies - Not Tracked

Prepared Statement of the American Farm Bureau Federation

Presented by

David Miller, President of Ohio Farm Bureau

Mr. Chairman and members of the Subcommittee, Farm Bureau appreciates the opportunity to present testimony on the issue of farm foreclosures.

The American Farm Bureau Federation is the nation's largest general farm organization with a membership of over 3 million families in 48 states and Puerto Rico. Farm Bureau members produce virtually every type of commodity grown on a commercial basis in the country. Farm Bureau policy is developed by the producer members at the county, state, and national levels of the organization.

Much attention in the press in the past year has been focused on the issue of farm foreclosures, especially, foreclosures forced by the Farmers Home Administration. However, the number of actual FmHA foreclosures is quite small. Out of more than 270,000 loans made by FmHA during FY82, foreclosure was undertaken in only 844 cases--less than 3/10ths of one percent of the borrowers. During the same time period, 6,000 borrowers liquidated their loans and 1,245 chose bankruptcy. In all, about 8,000, or 3 percent, of all FmHA borrowers stopped farming. Even though 1982 was the third straight year of low farm income, FmHA was able to stay with over 97 percent of its farm borrowers. According to FmHA figures, 3,600 borrowers had their principal and/or interest payments deferred, 12,000 borrowers had their loans rescheduled or reamoratized, and nearly 30,000 loans were subordinated to allow the farmers to obtain loans from private lenders. In addition, one quarter of the FmHA borrowers were being carried delinquent at the end of the year.

Many Congressman still feel that this record is not good enough. Several pieces of legislation now moving through Congress require a moratorium on FmHA foreclosures and a mandated deferral on payments of principal and interest for one year. Farm Bureau opposes both of these provisions. As most of you know, the Secretary of Agriculture already has discretionary authority to forego foreclosure and defer payments. We fear that if a mandated deferral of payments provision was adopted, many FmHA borrowers who could make their payments on time might choose to wait until the end of the deferral period, and use the available money elsewhere until that time. Therefore, mandatory deferral could be a very costly item. The Department of Agriculture estimates that the additional deferrals would cost the government between $1.4 and $1.6 billion. In addition, a deferral provision is unfair to borrowers who use sources of credit other than FmHA (88 percent of the agricultural borrowers) and would have to continue to make timely payments.

While a moratorium on foreclosure, or a mandated deferral of payments is not the answer, farmers could be aided much more if FmHA provided better servicing. FmHA studies indicate that local FmHA loan officers are responsible for nearly twice as many farm borrowers as is a more conventional lender such as the Farm Credit System or a private lending institution.

In addition to this burden, FmHA personnel also are required to spend a good deal of time and effort on nonagricultural programs. Programs which require not only funds, but time and effort of FmHA personnel include home ownership loans, rental housing loans, mutual self-help housing loans, congregate housing loans, water and waste disposal loans, energy impact assistant grants, community facility funding, business and industry program funding, watershed and flood prevention loans, and resource con-

servation and development loans. These programs all draw on the time that FmHA personnel have to spend on the necessary agricultural credit programs. We feel farmers could be aided much more if FmHA did not have to spend so much time on the non-farm programs presently administered by FmHA.

The Farmers Home Administration was originally created for one purpose--to make loans to Depression-stricken farm families. Today, although FmHA still aids family farmers, its resources are not concentrated on aiding family farmers because its programs have become so highly diversified.

A specific example would be a recent discussion one of our state Farm Bureau presidents had with his county FmHA personnel. He complained of the long periods of time farmers had to wait before hearing from FmHA about their loan applications. The farmer pointed out that forcing a farmer to wait until mid-April to see if his operating loan would be approved was too late in the year. He was told that one of the biggest time constraints was the fact that at least two days each week were spent on housing loans.

We must not let this continue. An important part of the answer to aiding farmers is not a simple moratorium or a mandated deferral on payments--it is better and faster servicing by FmHA personnel.

Grain elevator bankruptcy continues to be a serious problem facing farmers and rural communities. We appreciate your leadership on this issue in the past and encourage you to pursue remedial legislation in this Congress. We are optimistic that the House Judiciary Committee will consider this issue after deficiencies in the Bankruptcy Reform Act of 1978 are corrected.

In the past, Congress has acted to protect agriculture producers from losses that occur when the markets to whom they sell their products go bankrupt. On September 13, 1976, the Packers and Stockyards Act was amended by establishing a statutory trust for livestock producers in the event that packers are unable to make payment. Congress determined that the inability to pay livestock producers was an "obstruction to commerce" and "contrary to the public interest". The statutory trust requires that livestock producers be paid before banks and other secured creditors and provides greater protection than is currently being sought for grain producers.

Farm Bureau appreciates this opportunity to testify and I would be happy to answer any questions committee members might have.

Senator DOLE. Our next panel will represent urban and rural homeowners. I would like to welcome Henry Sommer, Community Legal Services, Philadelphia, Pa.; Rev. Morris Shearin, Garysburg, N.C.; and John Garland. They will be followed by a panel of agency witnesses.

You might proceed in any way you wish. We would hope you might summarize your statements, which will be made a part of the record, in order to give us some opportunity to question.

STATEMENTS OF HENRY J. SOMMER, STAFF ATTORNEY, COMMUNITY LEGAL SERVICES, INC., PHILADELPHIA, PA.; REV. MORRIS SHEARIN, GARYSBURG, N.C.; AND JOHN W. GARLAND, EXECUTIVE DIRECTOR, LEGAL SERVICES OF THE COASTAL PLAINS

Mr. SOMMER. My name is Henry Sommer. I am here today on behalf of the Philadelphia Unemployment Project, which is a nonprofit organization of unemployed workers.

We thank you for the opportunity to give our views on this foreclosure problem.

The Philadelphia Unemployment Project has been intensively involved in the problem of mortgage foreclosures for many months now, ever since it became apparent that we were seeing a massive increase in the number of mortgage foreclosures in our area.

In the State of Pennsylvania mortgage foreclosures have almost doubled since 1980, and they were not low then. In Philadelphia alone there are about 300 mortgage foreclosure sales per month.

Personally, I have been working in this area for about 10 years, and, in our office, we see more mortgage foreclosures now in a few weeks than we used to see in a year. All of this is despite the fact that there has been increased use of chapter 13 bankruptcy, and despite the fact that there has been some increase of HUD assistance to people facing foreclosure.

With respect to how bankruptcy is related to mortgage foreclosure, there are two specific issues I would like to address today. The first is the inadequacy of chapter 13. Chapter 13 now offers people, and all that it offers is, the right to cure mortgage defaults within a reasonable time.

What that means in practice is that homeowners must be able to pay their current monthly mortgage payments, some payment toward their arrears, the bank's attorney fees, and costs, which can exceed $1,000, possibly interest on top of all these, 10 percent on top of all of that to the chapter 13 trustee, plus their own attorneys' fees, which can be $500 to $1,000 if there are not any complications, and even more if there are.

Despite these costs, many people do use chapter 13, because before they did not even have that much of a remedy. But it does not help most unemployed workers, who have no way to catch up over a reasonable period of time.

In essence, all that chapter 13 is, right now, is an expensive way to force a lender to be reasonable, to force the lender to let a homeowner catch up over a reasonable period of time, but it does not help those who right now cannot pay their current monthly payments, plus all those other costs.

What we need is more flexibility in chapter 13, to allow partial payments, to allow the adjustment of terms which we do have with secured claims other than home mortgages.

The second problem in bankruptcy is, unfortunately, the proliferation of unscrupulous and incompetent clinics which are advertising chapter 13 as a cure for all types of financial problems, including mortgage foreclosures.

In our bankruptcy court we see hundreds of totally inappropriate chapter 13 cases, unrealistic plans that debtors cannot possibly afford to meet. These plans fail within a few months, and the results for the debtors are often disastrous. They lose, first of all, $300 to $1,000 to the people that were supposedly helping them, their attorneys, or some of these pro se clinics that have sprung up. They fall further behind in their mortgages, and they often lose all chance of saving their homes, because they are viewed by their lenders as people who cannot keep up payment arrangements, even though those payment arrangements were totally unrealistic.

So far I have discussed bankruptcy problems, but in many ways these problems that I have discussed are only symptoms of what the real problems of mortgage foreclosure are. Those problems are, No. 1, the refusal of most lenders, most banks, to make reasonable payment arrangements, and No. 2, the failure of government agencies, agencies that are supposed to be helping homeowners, to do what they can and should be doing, to assist in mortgage foreclosures situations.

As I mentioned earlier, all that chapter 13 does is force a bank to be reasonable. The only reason people need it right now is that most banks are not reasonable. They do not allow homeowners to catch up over a reasonable period of time. Almost every lender that we see has a policy of refusing partial payments.

We see people, time and again, sending in one, two, three payments, and the bank sending the money back, refusing to accept anything other than the full amount that is due, including all the fees, charges, et cetera. It is these kinds of policies that cause a lot of homeowners to lose hope, and these policies that cause the homeowners to become desperate, and drive them into the arms of the unscrupulous chapter 13 practitioners. They feel they have no other alternative.

The problems of the government agencies are equally severe. Both HUD and the VA already are authorized to offer forebearance assistance, wherever there is FHA or VA insurance. HUD is doing so grudgingly, under a court order, with its assignment program, which offers up to 3 years forebearance for those who can get through all the redtape and bureaucracy you have to go through to get it.

The VA's attitude, so far, has been almost total refusal to give any type of help, In fact, the VA does not even enforce the regulations that require some minimal forebearance from lenders on VA loans.

If the help that these agencies are already authorized to give was in fact given, it would help thousands of homeowners, and a publicity for this help could make it much more available. The publicity is not there right now. Most people do not know that HUD can help them. Most people do not know that the VA is authorized to

help them—and right now, if they go to the VA, they do not get any help anyway.

If this help were given, it would make chapter 13 unnecessary, and all of its extra costs unnecessary for most people. In fact, the terms that these agencies are authorized to give are much more favorable than those which people can obtain in chapter 13, and the assistance does not cost anything. If these programs were widely publicized, people would not feel that they have no alternatives to the chapter 13 clinics.

The Philadelphia Unemployment Project is seeking some other remedies as well, which are discussed somewhat in my written testimony. In several counties in Pennsylvania we have successfully petitioned the court for a temporary moratorium on foreclosures. But that moratorium is, and can only be a stopgap until some of these other more major things are addressed. We are also working for legislation to give assistance to homeowners facing foreclosure by way of second mortgages, such as H.R. 1330.

And finally, the Philadelphia Unemployment Project is working on the most basic solution, which is jobs. If the people had jobs, they would not be in the predicament that they are now in with mortgage foreclosures. In fact, thousands of unemployed workers will be in Washington here tomorrow to lobby on these very same issues, on jobs and mortgage foreclosures. We hope that you will have an opportunity to meet with them.

Thank you.

Senator DOLE. Thank you. Reverend Shearin?

Reverend SHEARIN. Senator Dole, my name is Rev. Morris Shearin. I am a rural Baptist preacher in Bertie, N.C.

Over the past year I worked with the National Sharecroppers Association out of Charlotte and Wadesboro, N.C., working with black farmers and their land loss problem which they are facing in North Carolina, in particular. Black land loss is a great problem in the South, and in North Carolina especially.

We did not have the time to prepare our written statement for you, but we will submit it to you as soon as we return, Mr. Garland and myself.

But one of the fact sheets prepared by the N.C. Black Lawyers Association indicated that in North Carolina, where minority land ownership is second only to the State of Mississippi, minority-owned farms have declined from a high of 23,514 in 1950 to the current 7,608.

While land ownership in general for the same period declined from 1,170,149 acres to 444,060 acres of land. Now, as a result of that, many of the farmers are forced to leave the land, and especially the minority farmers, and one of the problems that the minority farmers are facing in the area is that they are not in control of, such as the weather conditions. We have droughts, we have other problems, and then Farmers Home Administration, for the most part, are delayed in making the loans to these farmers.

I encountered any number of farmers in several counties that made loan applications during the months of December and January, and they received their moneys to farm during the months of June and August. And at that point it is too late to plant and farm, leaving them to farm with the money that they can raise or scrape

20-231 O - 83 - 3

together. Thus they cannot put the proper chemicals and other things that are needed for a good crop, and the crops come up far short. With low prices, and other things that they are facing, they are virtually pushed off the land.

Regretfully so, my father-in-law was funeralized yesterday. He had been a farmer for more than 40 years. For the past couple of weeks he was trying to secure money, from the Farmers Home Administration, so that his son could take over the farmland, of which he was denied, and Farmers Home Administration said that he should give up farming altogether.

But a man who has farmed for 40 years, at age 60, if he gave up farming, there is nothing else for him to do. So it is a great problem that many of the black farmers and minority farmers in North Carolina are facing, and we are before you making a plea, and Brother Garland will point out many other things for you, that we would like for the committee to look at, and to see if we cannot in some way help rectify the problems that the black farmers and minority farmers are facing in North Carolina.

Thank you.

Senator DOLE. Mr. Garland?

Mr. GARLAND. Good morning, Senator Dole. Thank you for this invitation to appear before this committee.

My name is John Garland. I am the executive director of Legal Services of the Coastal Plains. Legal Services of the Coastal Plains is one of many legal services operations funded programs. We serve 11 rural counties in northeastern North Carolina, that comprise the First and Second Congressional Districts. Our population we serve is 90 percent rural, and agriculture is a predominant economic activity.

The problems facing the black farmer are acute, and need to be stated here today. Governor Hunt recently noted that since 1920 white farm ownership in North Carolina declined about 56 percent, while during the same period of 1920 to 1978 black farm ownership has declined 94 percent.

The problems facing the black farmers are acute. For example, in the First Congressional District, the numbers of black full-time farmers has declined from 2,570 tilling 111,000 acres, in 1954, to only 529 tilling 26,000, a 79-percent decline, which, according to the North Carolina Division of Public Policy, will mean by the end of the century there will be no black-owned farms in the State of North Carolina.

The U.S. Commission on Civil Rights, in their report on black farming in America, predicts that by the end of this century there will be no black-owned farms in the United States.

The farm foreclosure statistics you heard earlier are not reflective of the number of farmers who are going out of business by involuntarily liquidating their assets and lands. I believe a conservative estimate is that for every one foreclosure, there might be two farmers who are voluntarily quitting farming.

In most instances, these farmers who are getting out of the business have been threatened by foreclosure, particularly by threats from the Farmers Home Administration, and other federally funded or chartered agricultural loan programs.

Legal Services of the Coastal Plains opened its offices in 1979, and shortly after opening our offices, we received inquiries and visits from limited resource farmers, seeking legal assistance for land-related problems. Since then, we gave seed and provided a great deal of assistance to limited resource landowners and black farmers.

Far too many of the requests for assistance we received then, and still receive now, concern problems that relate directly to the practices and policies of the Farmers Home Administration.

We believe that many of the problems resulting in the decline in family-owned farms are related to inflation, high operating costs, et cetera, et cetera, but when you look at the problem of the black farmers it is very clear that racism is another aspect of the decline in black farming.

Also, black farmers generally are farming marginal land, which relates to when the majority of the black-owned land was acquired, which was around the turn of the century. That is when blacks acquired some 15 million acres of land, and in most instances that land was marginal, because banks and other institutions would only sell to black farmers to acquire marginal lands.

As I stated earlier, many of the problems that black farmers are experiencing relate directly to Farmers Home Administration policies and practices. A persistent question we are asked is, What exactly is the role of the Farmers Home Administration? Many farmers believe, and the plight of the black farmer, we think, makes a truism, that the Farmers Home Administration gives them just enough credit counseling to hang themselves.

Some of the persistent complaints involve the following: No. 1; there is too much subjectivity in FmHA's loan programs, and eligibility guidelines. This subjectivity also carries over into FmHA deferral practices, or the lack thereof.

I have yet to see more than two black farmers who have come into our office seeking assistance, who have been informed of the deferral policies, and who have been given the benefit of the other policies and even information on loan policies.

Two, FmHA lending practices often result in farmers receiving less than they need to operate for a particular year, which means that they get a smaller yield. Black farmers routinely complain that they make their applications for loans in December and January, but these loans are disbursed April, May, June, July, well beyond the best planting season.

Three, Farmers Home Administration supervisors at the county level do not supervise farmers in a helpful, nonantagonistic manner. Many complaints we receive from farmers are that the county supervisors do not provide the kind of technical and management assistance they need, but rather deal with them harshly, and in such a manner that they are unable to meet their obligations.

Four, there is—and I believe this is critical—there is little or no research, or activity designed to help the small farmer. The various——

Senator DOLE. I am going to have to ask you to summarize. I have to be out of here by 11:45, and I have three more witnesses.

Mr. GARLAND. Fine. I have some recommendations, and I would like to go directly to them.

One, I believe Congress should conduct oversight hearings on the extent to which USDA policies and programs address the problems relating to the loss of black-operated or owned farmlands, and farm foreclosures in general.

Two, Congress should enact legislation, or otherwise direct the USDA to impose a moratorium on foreclosures for limited resource and family owned farms.

Three, the Farmers Home Administration should revise regulations to insure that farm loans are given to those for whom Congress intended such loans should be made available.

Four, Congress should direct the Secretary of Agriculture to implement all USDA civil rights policies and regulations, and insure there are systematic and effective procedures for enforcing civil rights complaints.

Five, the Farmers Home Administration should insure that county committees are representative of the population of the county in which they serve. For example, there has been a 39-percent decline in the numbers of black committee members from 1979 to 1980.

Six, the Farmers Home Administration should provide funds that will encourage minority, limited resource, and family farmers to find alternatives to small grain and tobacco crops.

Seven, I agree with the earlier witnesses, who stated that the FmHA does need more manpower, but I submit that it has the most abysmal record in the appointment of minorities in supervisory and other management positions in the Federal Government. Right now 7.8 percent of all of their employes are minority, and I believe 1.2, if that high, are in supervisory capacity. Those positions that make loans and supervise farmers.

Thank you.

Senator DOLE. What is the State of Pennsylvania doing? Do you have a State relief or emergency assistance program?

Mr. SOMMER. There have been several bills introduced in the State legislature. Governor Thornburgh has submitted a program to provide emergency loans. The Republican Senate majority leader, Jubelirer, has introduced a program. Both parties have introduced different programs, and we certainly hope that one of them will pass. Most of them call for one form or another of second mortgage assistance. The big problem, as always, is funding, and there have been a number of different proposals for that.

I think Governor Thornburgh's program will probably run into the most problems, because he proposes to take money from the State lottery funds, which up until now have been earmarked for senior citizens.

But there have been some proposals, and we hope one of them will pass. We are guardedly optimistic.

Senator DOLE. Are there any plans in North Carolina to provide assistance at the State level?

Mr. GARLAND. To help the family farm, the black farmer, yes, there has been. There has been some separate funding. Legal Services nas been involved, and the Governor of North Carolina recently declared a national land loss—I am sorry, a State land loss pre-

vention week, where there was intensive effort on a statewide basis, to inform landowners of their rights, and indeed to preserve the family farm system.

It is important to know, in North Carolina——

Senator DOLE. Governors always do that, but they always come up here for the money.

Mr. GARLAND. Have they done anything other than that?

Senator DOLE. Yes.

Mr. GARLAND. No.

Senator DOLE. Are they putting up any money?

Mr. GARLAND. No.

Senator DOLE. Everybody, the States, farmers, almost everybody is facing the problem—namely the unavailability of credit and shortage of funds. Our next panel features a spokesman from the Farmers Home Administration and I intend to ask him specifically about some of the questions you raised in your testimony.

Since this is not an oversight hearing on the Farmers Home Administration, I will ask the Veterans' Administration and HUD to respond to some of the comments that you made. Their responses will be made a part of the record.

I will ask Doug Comer on our staff to contact the appropriate sources at VA and HUD to provide for the record official responses to some points you have made. One of the issues you raised, which is of particular interest to me, concerns notifying people of their rights. If they are not being given adequate notification, that should be remedied.

And with reference to Farmers Home, I think it might be to everyone's benefit to hear what they have to say.

If you wait another 10 or 15 minutes, maybe you can get a response.

Mr. GARLAND. Senator, in our work, and in our practice, we have found a causal connection between farm foreclosure rates, particularly from minorities and black farmers, in the practices of the Farmers Home Administration.

It is important to have officials here who will be talking to you, who sit in Washington and at the State level. At the county level, the plantation mentality in the Farmers Home Administration prevails, and that is an experience I see every day, Reverend Shearin sees, and his parishioners; it is one that unfortunately has not been cured.

The practice of the Farmers Home Administration regarding this has been to circle the wagons, and say, we are all good old boys, and nobody is being hurt.

The fact of the matter is, Senator, by the end of this century, some 17 years from now, there will no longer be any black-owned farms in this country, at the present rate.

Senator DOLE. Thank you very much. I appreciate it.

[Material submitted by Messrs. Sommer, Shearin, and Garland follows:]

PREPARED STATEMENT OF HENRY J. SOMMER

My name is Henry J. Sommer and I am an attorney at Community Legal Services in Philadelphia. I am here today at the invitation of the Committee and speaking on behalf of the Philadelphia Unemployment Project (PUP), a nonprofit organization of unemployed workers that has been actively addressing mortgage foreclosure problems in the Delaware Valley. I thank the Committee for inviting PUP to appear before it to present our experiences and our views on the foreclosure problem.

THE MORTGAGE FORECLOSURE CRISIS

The Philadelphia Unemployment Project first became involved with the foreclosure problem last summer when it became clear that, other than the lack of jobs in the local economy, mortgage foreclosures were becoming the single most pressing problem facing many unemployed workers. Thousands of families were facing the imminent loss of their homes, often representing their life savings, because of the current economic distress. PUP began operating a well-publicized mortgage foreclosure hotline and formed a Foreclosure Crisis Committee which held regular meetings to discuss solutions to the problem.

What we learned at those meetings confirmed our belief that foreclosure rates were increasing in close correlation wit. unemployment rates, lagging only a few months behind. Besides those foreclosures caused directly by the loss of jobs, there were many foreclosures indirectly caused by the economy, due to marital breakups brought about by financial pressures, or large medical bills no longer paid by employer health insurance. Where refinancing might once have been available to homeowners with small principal balances on their mortgages, high interest rates raised monthly payments to a level where refinancing was not affordable.

Despite the recent availability and greatly increased use of chapter 13 bankruptcies and some HUD assistance programs, foreclosure rates in our area and nationally have climbed to levels surpassed only during the Great Depression. In the City of Phila-

delphia alone last year almost three hundred foreclosure sales per month were scheduled. For the State of Pennsylvania the rate of foreclosures has almost doubled in the space of two years, and the Philadelphia area HUD office reports an increase of foreclosures in process of fifty percent in the past year alone. In areas like Philadelphia where the latest economic ills come on top of years of sustained unemployment, additional relief is critically needed to save thousands from losing the homes they have owned and lived in for years.

FORECLOSURE AND BANKRUPTCY

Our current bankruptcy laws offer only limited help to families facing foreclosure. The principal remedy provided is the right under chapter 13 to cure a mortgage default over a reasonable period of time. What this means is that homeowners must be able to pay not only current mortgage payments, but also monthly payments toward arrearages, plus the bank's attorney fees and costs, plus the chapter 13 trustee's fees, plus possibly interest on all of these, as well as their own attorney's fees.

While a chapter 13 bankruptcy may help homeowners who have gotten new jobs or families that have one spouse still working, it does little for those still suffering serious financial difficulties. Changes are therefore needed to make the chapter 13 solution more flexible and useful. As was done for farmers during the Great Depression, Congress should allow mortgagors to pay what they can afford, even if less than their current payments, for a reasonable period of time. The mortgage could then be adjusted to make up the amounts missed plus interest over its remaining term or after its maturity date. Such relief, where the mortgage company's investment is adequately protected, would cause little risk to the mortgagee.

A second aspect of the relationship of foreclosures to bankruptcy is more unfortunate. Despite the limited utility of bankruptcy for many unemployed mortgagors, hundreds of desperate homeowners have been induced to file hopelessly unrealistic chapter 13 plans through slick advertisements by attorneys and "pro se

clinics" that promise quick chapter 13 cures for all financial problems. These chapter 13 cases usually fail within a few months when debtors cannot keep up with the payments promised in unrealistic chapter 13 plans and the mortgage companies obtain relief from the automatic stay (often by default since those debtors who are represented by attorneys are refused further service without additional fees).

The only results of chapter 13 for this large group of debtors are bad ones. They lose anywhere from $300 to $1,000 or even more in attorney's fees to their own attorneys. They fall even further behind on their mortgages, with additional costs and mortgagee attorney's fees added to their balances. They may be legally prejudiced with respect to filing future bankruptcies that may be more realistic or appropriate, and they are viewed by their mortgage companies as people who will not fulfill promised payment arrangements.

At least in the Philadelphia area, so far, the bankruptcy courts have not been able to police the problems of lay "counselors" and attorneys who file high percentages of unsuccessful chapter 13 cases. One answer may be to make this a priority function of the United States Trustees, if they are retained. Otherwise, it is imperative that other solutions be devised, perhaps involving not only the return of attorney's fees to debtors as occasionally now occurs, but also awards of compensatory fines to debtors in egregious cases.

LENDERS' AND GOVERNMENT AGENCIES' CONTRIBUTION TO THE PROBLEM

Most of the bankruptcy problems I have discussed would never occur if mortgage companies and government agencies took a more reasonable approach to the problems of homeowners facing foreclosures. In fact, the primary relief now available in chapter 13 would not even be necessary if banks simply allowed mortgagors to catch up in their payments over a reasonable period of time. But the steadfast refusal of lenders to work out any arrangements for homeowners to bring their payments up to date gradually puts

homeowners in a situation where they may have no alternative to chapter 13, under which it takes much longer to catch up, because of bankruptcy attorney's fees, trustee's fees, filing fees and other costs.

In our experience, mortgage companies almost uniformly refuse to accept reduced monthly payments or partial payments on arrearages from homeowners in economic difficulty. Time after time, I have heard the same absurd tale of banks refusing to accept money--of returning payments because they were less than the amount due. One individual, who came to PUP and who had lived in his home for 13 years, fell 2 months behind in his mortgage because he was hospitalized with a lung disease after working 23 years in a factory. When he attempted to resume his payments, his money was refused. This experience is the rule and not the exception.

The banks' refusal to accept partial payments and to enter reasonable payment arrangements is demoralizing to homeowners who are already burdened with the host of problems associated with unemployment. The banks' policy makes it all but impossible for homeowners to save their homes, even if they later find work, because it leads to the commencement of foreclosure proceedings and the addition of hundreds of dollars of legal expenses to the arrearage. Indeed, one of the worst offenders in this regard is the quasi-governmental Federal National Mortgage Association (FNMA). If the policies of FNMA and others would be changed with regard to partial payments, a giant step would be made in addressing the foreclosure crisis without the expenditure of a single dollar by the federal government.

These same policies are the prime causes of the atmosphere of panic among homeowners that allows the unscrupulous bankruptcy clinics to flourish. Many of the homeowners we have seen went to these clinics when they were only two or three payments behind because they saw no alternative once the bank refused to take less than every penny that was due. While there should have been many better ways of reasonably resolving the problem at that point, by the time their chapter 13 cases had failed their situations were

far worse, sometimes hopeless. Thus the banks' unreasonable servicing of mortgages contributes directly to this bankruptcy problem.

We at PUP know of no justification for the banks' refusal to make arrangements with homeowners who fall behind through no fault of their own. Some lenders have claimed that they are virtually required to adopt these policies by federal regulatory agencies such as the Federal Home Loan Bank Board. While we doubt that there are any formal directives against forbearance, we do have every reason to believe that federal regulatory agencies have done little or nothing to help the situation. Inflexible reserve requirements that fail to encourage forbearance to troubled homeowners must be changed immediately.

The foreclosure problem is aggravated not only by the banks but also by the Veterans Administration and the Depaftment of Housing and Urban Development, the very government agencies that are supposed to help homeowners. These agencies fail to enforce their own regulations requiring banks to take partial payments for limited periods of time. Indeed, they may even encourage foreclosures. Certainly, the availability of federal mortgage insurance funds to pay even the costs of foreclosure gives banks every incentive to foreclose, especially where they can retire low interest loans. Our preliminary studies have also shown that banks are most eager to disinvest in those areas where other government programs, such as the Community Reinvestment Act, are requiring them to grant financing.

The Veterans Administration and HUD have also consistently failed to publicize and implement programs under which they can assist homeowners. The VA's policy, in fact, is to provide no help to an unemployed homeowner until the homeowner is employed again and capable of making payments in excess of the regular monthly mortgage account. An unemployed homeowner who seeks help because he cannot afford to make a payment is given such "advice" as: "Make double payments" or "take out a loan to catch up" or "if you can't afford the payments, you should give up the house."

The Veterans Administration has the authority to require mortgage lenders to act reasonably and take partial payments. The Veterans Administration can also itself accept assignments (known as "refundings") of insured mortgages and allow the homeowner to pay what he or she can afford. It has done neither. Only recently and in the face of intense pressure from groups such as PUP, has the Veterans Administration in our area, in a few cases, attempted to assist homeowners in this manner. The Veterans Administration's refusal to exercise its authority with insured mortgage lenders and to implement a refunding program can, and should, be addressed by federal legislation.

HUD's ability to help distressed homeowners is similar to the Veteran Administration's. Unfortunately, its program, too, has largely been ineffective. Nationwide, due to lack of publicity, only 10% of the eligible homeowners apply for HUD assistance through its assignment program. Of those that apply, only 14% receive assistance, most of the rest being discouraged or turned away by an insensitive and time-consuming bureaucratic process.

Again, it is hard to imagine that unscrupulous chapter 13 clinics could thrive if HUD and VA did all they could to publicize and implement the assistance that they are already authorized to grant. The relief available under the HUD assignment program for most homeowners with FHA mortgages offers far better repayment terms, at no cost, than does relief under chapter 13. If given full information and access to that relief, few homeowners would be lured by unscrupulous chapter 13 clinics which now thrive in our area. By making sure that these HUD and VA programs function in a way that provides real help to homeowners, Congress could thus not only help families to save their homes but also prevent chapter 13 cases that are inappropriately filed.

OTHER SOLUTIONS TO THE PROBLEM

In the face of the obstinance of the banks, FNMA, the Veterans Administration and HUD, PUP began a campaign to change those policies which contribute to the current mortgage foreclosure crisis. On a local level, PUP has achieved some notable successes.

In Philadelphia, PUP has confronted several local mortgage companies concerning their refusal to accept partial payments. In individual cases, the mortgage companies have relented and worked out reasonable payment arrangements. Unfortunately, these same lenders have maintained their general policies of refusing to accept partial payments from most homeowners.

As a result of pressure from PUP, the Veterans Administration has shown some increased willingness, again in individual cases only, to accept assignments of mortgages and to recommend that insured mortgage lenders enter forbearance agreements.

The building sense of outrage and the unprecedented number of homeowners threatened with the loss of their homes have also caused the courts to address the serious foreclosure problem that exists. In order to provide time for development of a legislative solution, PUP has petitioned the courts for a stay of sheriff sales in the Philadelphia area. Thus far, such petitions have resulted in a moratorium on foreclosure sheriff sales on owner-occupied properties in Philadelphia County, Allegheny County, Delaware County and Lawrence County, Pennsylvania. Hundreds of sheriff sales have been postponed and homes saved, at least temporarily, by these court orders.

While PUP is proud of its achievements this far, we recognize that they provide only a stopgap until a comprehensive legislative solution is developed. The real solution must come from Congress.

Legislation is needed which will make chapter 13 a real and viable solution for those who cannot afford to meet their monthly mortgage payments.

Legislation is needed which will provide financial assistance to help unemployed homeowners make mortgage payments while they try to get back on their feet.

Legislation is needed which will require banks and FNMA to accept partial payments and work out reasonable payment arrangements with unemployed homeowners, and to make sure federal

regulatory agencies encourage rather than discourage such arrangements.

Legislation is needed to ensure that the Veterans Administration and HUD activate and publicize the various mortgage assistance programs they are authorized to carry out.

And, legislation is needed to provide the most basic solution of all--jobs for the millions of people who are unemployed but who cannot find work. For the real problem is the depressed state of the economy in this country. If people were not losing their jobs, they would not be falling behind on their mortgages in record numbers. If unemployed homeowners could find work, they could set up prompt repayment plans on their mortgage delinquencies.

In fact, tomorrow the Philadelphia Unemployment Project, along with other similar groups from other parts of the country, will be conducting a mass lobbying day here in the Capitol about both of these issues to further highlight the link between them. We hope you will hear their requests and act upon them as quickly as possible.

[From the Philadelphia Inquirer, Feb. 2, 1983]

JUDGE DELAYS SHERIFF'S SALE OF HOMES WHILE A MORATORIUM IS CONSIDERED

(By Marc Kaufman)

Common Pleas Court President Judge Edward J. Bradley yesterday postponed, for at least a month, the Feb. 7 sheriff's auction of foreclosed owner-occupied homes—apparently the first such postponement here on record.

Bradley said he would hear legal arguments Feb. 15 and would decide soon after whether to establish a moratorium, reminiscent of similar steps taken during the Depression, on sheriff's sales of owner-occupied homes.

"There's no question that what's involved here is a serious problem," Bradley said in announcing the postponement, which lawyers involved in the case believe affects 200 to 300 foreclosed properties this month. "The court is aware of the great importance on people's lives and on the lending institutions of what we are discussing."

The decision to postpone the sale was greeted with cheers from several dozen people in the audience from the Philadelphia Unemployment Project (PUP), a group of community activists who, together, with Sheriff Joseph Sullivan, had petitioned Bradley last month for a moratorium. They had argued that, with the state's unemployment rate at a postwar high of 12.9 percent, homeowners were being forced into default on their mortgages through no fault of their own and that lenders were not being sufficiently understanding.

Representatives of Philadelphia mortgage lenders in court yesterday indicated that although they generally opposed the idea of a moratorium, calling it unconstitutional and unfair, they had agreed to postpone the sale for at least one month while the complicated legal issues involved could be addressed.

"To postpone one month is not a big problem for us," said Louis DiGiacomo, who represents the 61 savings and loans of the Insured Savings Association of Delaware

Valley (ISA). "But to postpone it more than that could become a very serious matter."

There are about 300 foreclosed residential properties scheduled for the Feb. 7 sale, but an undetermined number of them—estimated by the two sides to be between 10 and 100—still will be sold because they are either vacant or occupied by someone other than the owner. An additional 250 properties scheduled for sale by the city because of nonpayment of tax will not be effected by the postponement.

Philadelphia Undersheriff Matthew Carrafiello said the postponement of the sale of owner-occupied homes, which his office supported, was the only one on record for the city. He said it was warranted because the nation's—and area's—economic troubles were "the result of a planned economic strategy of the federal government to create high unemployment to bring down inflation. Because this was done without regard to the little guy, people like us are left to protect him."

Further reflecting the political nature of the foreclosure issue, the City Council also has tried to enter the debate, overwhelmingly petitioning to join the call for a moratorium last week. Bradley, however, denied the council's petition yesterday without explanation.

Bradley's postponement marked the third time this year that a sheriff's sale in Pennsylvania has been postponed or canceled on the ground of general economic hardship. An Allegheny County judge, at the request of county Sheriff Eugene Coon, stayed the sale of 40 homes last month in Pittsburgh, and a similar decision was made recently on a dozen homes and farms in Lawrence County, 60 miles northwest of Pittsburgh.

In both cases, the judges established a procedure to bring the borrowers and lenders involved into court for a "reconciliation" conference, during which a new mortgage payment schedule was to be arranged. John Dodds, a leader of PUP, said yesterday that he also wanted to see some kind of "reconciliation" conference ultimately set up in Philadelphia, with guidelines for payment similar to those set by the federal department of Housing and Urban Development (HUD).

"We want the [mortgage] lenders to use the same standards as HUD—[no more than] 35 percent of your income for shelter in times of economic crisis," Dodds said. "We want that standard to be set so the individual [homeowners] won't get pushed around."

Because of the large number of sheriff's sales in Philadelphia, however, many people—including Bradley—have suggested that a reconciliation service might be unworkable here. In Pittsburgh, the sale of homes after mortgage foreclosures average 40 residential properties a month; in Philadelphia, the sheriff has sold between 150 and 300 a month for many years.

Although no legal arguments were heard yesterday on the substance of the moratorium petition, the general opposition of the mortgage lenders—who were represented by several dozen attorneys—became apparent.

Speaking for the ISA, DiGiacomo said he would likely argue on Feb. 15 against a moratorium. He said the proposed moratorium was "an unconstitutional denial of our rights. The court has no authority to [break mortgage contracts] on a blanket basis—especially since [borrowers] have so many legal remedies already."

Perry Bechtle, representing the Mortgage Bankers Association, also opposed the moratorium idea, but said after the hearing that he believed that there were some emergency cases in which court action was justified.

"This next step is to refine what we are talking about, to find out those entitled to relief because of 'economic circumstances,'" he said. "Then we have to decide what relief they are legally entitled to, and to hammer out a procedure for giving it."

The question of what relief should be available is the subject of a bill recently introduced in Harrisburg. It would increase the authority of common pleas court judges in foreclosure cases. Legislative efforts have also begun to establish a loan fund for homeowners who, through no fault of their own, default on their mortgages.

[From the Philadelphia Inquirer, Feb. 11, 1983]

Homeowners in Debt Find New Wolf at Door

(By Marc Kaufman)

John Felice was about to lose his family home in Warminster and he was desperate.

Six months behind on his mortgage payments, his house had already been advertised for sheriff's sale when a letter arrived from Frank David of the Debtor's Protection and Educational Services in Norristown. The letter said that with the agency's help, "all legal action and harassment from your creditors will be stopped immediately."

Felice quickly made an appointment to see David, who told him that for a $125 fee he would help him to file a petition for a Chapter 13 personal bankruptcy. Convinced that his problems were over, Felice immediately agreed.

It was months later—after finding that his bankruptcy petition had been rejected and that his house was again up for sheriff's sale—that the dismayed Felice learned that Frank David was not an attorney and had only limited knowledge about how to file a bankruptcy petition. By that time, his debt problems had greatly worsened.

That was also when Felice learned that many other area homeowners facing sheriff's sales had been similarly contacted by "consumer agencies"—generally small operations advertising quick, painless help for debtors, but delivering new problems instead.

Because by then, the trustee of the United States Bankruptcy Court for the Philadelphia area, James O'Connell, had sued Frank David and all other nonlawyers like him for what he described in the court papers as the "unauthorized" advising of customers about Chapter 13 bankruptcies.

The trustee had become alarmed by the quick growth of the agencies throughout the Delaware Valley—a growth linked to the rise in mortgage foreclosures in the worsening economy—and he had brought an unusual class-action suit last fall with the expressed desire of putting them out of business. The suit is now being argued before U.S. Bankruptcy Judge William King.

Since then, other officials have grown wary of the "consumer agencies," and just yesterday, the director of the New Jersey Division of Consumer Affairs, James Barry, issued a formal warning about them.

After a meeting in Newark, N.J., with officials of the Federal Trade Commission and the bankruptcy courts, Barry concluded that "there are a growing number of groups forming—many of which give the mistaken idea they are affiliated with the United States government—which we feel are taking advantage of people's desperation. We advise people to be very careful about the help they seek."

"People were being mesmerized by the ads promising relief," John Fenerty, attorney for bankruptcy trustee O'Connell, said in a recent interview. "But what that relief usually turned out to be is a bankruptcy petition filed by someone who isn't an attorney and doesn't really understand the law—something we believe is illegal.

"The [debtors] are losing their money, and sometimes their legitimate rights under bankruptcy, too."

As outlined in that suit, O'Connell—whose office is supposed to ensure that both debtors and creditors are treated fairly in bankruptcy—had noticed a growing number of improperly drawn and unrealistic bankruptcy petitions being turned in. Most were officially "pro se" petitions, supposedly made by individuals without the help of an attorney, but O'Connell discovered that many had similar mistakes and oversights. He ultimately concluded that most were not filed by the individual petitioners at all, but rather by poorly trained employees of the "consumer agencies."

In addition to being concerned that the agencies were poorly serving their clients, O'Connell also soon had good personal reason for wanting the agencies stopped. His office was being swamped with work the agencies should have been doing. Unwilling to simply reject many of the bad petitions, O'Conneli was reworking them himself—a great burden to his already overworked office.

Although unable to say exactly how many people had used the agencies, Fenerty believes that the numbers are high.

Of the 2,665 Chapter 13 bankruptcies filed last year in the five-county Philadelphia area, for instance, about 500 were filed "pro se"—and Fenerty believes most were actually filed by the agencies. Supporting this assumption, Chapter 13 trustee Thomas Runnels of the U.S. Bankruptcy Court in Delaware reports that the number of "pro se" petitions filed last year in his state where "consumer agencies" are not active, was insignificant.

Thus far only one of the eight individuals or businesses named in the suit has made an appearance in court, and telephone service for most of them including David has been disconnected.

In addition to the eight named defendants however, nine other individuals and agencies recently received letters from attorney Fenerty advising them that their businesses might be affected by the class-action suit. One of them was the United States Consumers Council—which actively advertises its services for debtors on

radio and television here—and representatives of the council did appear this week in a hearing before King.

During the hearing, attorneys for the council which operates out of Camden, argued that they were not a part of the "class" of offending agencies because they did not advise clients about how to file for bankruptcy. Instead, the attorneys argued, the council simply worked with customs and their creditors to reach a voluntary repayment schedule, and bowed out quickly if bankruptcy seemed required.

"This has been their business over several years," said David Seltzer, attorney for the council. "They are not a fly-by-night organization. We are not trying to just jump on the bandwagon at a time of crisis."

Further hearings have been scheduled about the council request but even if it is successful there the council may face additional legal and official challenges. After the meeting yesterday in Newark by officials from the Federal Trade Commission, the New Jersey Division of Consumer Affairs and the bankruptcy court, a decision was made to warn the public away from the council.

"We do not believe that the group provides a legitimate service," said state consumer affairs director Barry. "In tough economic times, consumers are susceptible to the kind of pitch they give. We're warning people to keep away from this group—to use their limited resources elsewhere."

In addition, the Philadelphia, Unemployment Project (PUP), a group of community activists who have been working with people about to lose their homes, is also planning to file a suit soon against consumer agencies."

"Damned near everyone we've [counseled] lately has been burned by the Consumer Council," said PUP leader Horace-Small in a recent interview. "First of all, people hear their commercials about how much they can help, and think they're a government agency.

"So they go, and are immediately told to pay a 'research fee'—usually over $200. As far as we've found, they usually then just refer the person to one of their favorite bankruptcy lawyers, and then it's another $600, $700."

What PUP finds partially galling, and what its lawyers expect to argue in the suit, is that the council advisers apparently do not know what options exist for debtors other than bankruptcy, and that they are hurting clients as a result.

For instance, one of the people for whom PUP plans to sue is a Southwest Philadelphia man named Louis Fleet, who said he paid almost $1,000 to the council and a lawyer to whom it had referred him, and still was going to lose his home. At wits' end, he called PUP, which in several days was able to get him into the "assignment program" of the federal department of Housing and Urban Development.—which gives up to three years of total forbearance in mortgage payments.

"We find many people who come to us [for bankruptcy help] have been to the 'agencies' first, and most are worse off for it," explained Community Legal Services attorney Henry Sommer, who is an expert on bankruptcy law and is now working with PUP. "They seem to have little understanding of the many possibilities out there for people in trouble with their mortgages."

Not only are there numerous programs available for people in financial trouble, but there are even many free counseling services which do precisely what agencies like the council claim to do: help bring creditors and debtors together to work out a repayment plan.

The Urban League, for instance, runs a free, government-sponsored and HUD-approved counseling program for people facing mortgage default, a program that can handle many more people than it currently is.

"If only we could advertise like the [consumer agencies]," said Urban League program director Henry Cruz. "They may not council well, but obviously, they know how to get people's attention."

PREPARED STATEMENT OF MORRIS SHEARIN AND JOHN W. GARLAND

Good morning Senator Dole and other members of this Subcommittee. On behalf of the staff of Legal Services of the Coastal Plains, thank you for inviting me to appear before this distinguished Committee to give a statement on the foreclosure problems we see facing limited resource and black farmers. Legal Services of the Coastal Plains is a Legal Services Corporation funded program serving 11 counties in Northeastern North Carolina. The counties we serve covering parts of the 1st and 2nd Congressional Districts, are approximately 90% rural; agriculture is the dominate economic activity.

In the State of North Carolina, the problem of land loss among limited resource farmers and landowners has been recognized by Governer James Hunt. In a proclamation, Governor Hunt stated that every year 36,000 acres of top farmland is lost in North Carolina, and between 1964 and 1978, 72,000 small farms went out of business in our state. Mr. Hunt also noted that since 1920, white farm ownership declined about 56 percent while Black and/or Native American farm ownership declined about 94 percent. (Proclaimation Declaring Feburary 20-27, 1983 as LAND LOSS PREVENTION WEEK, Attachment A).

The problems facing the black farmer are acute. For example, in the 1st Congressional District, the number of black fulltime farmers declined from 2,570 tilling 111,888 acres in 1954, to 529 tilling 26,876 acres in 1979, a 79 percent decline which, according to the N.C. Division of Policy Development on June, 1981, will mean that by the end of the century, "there will be no black-owned farms," in the state of North Carolina. See Attachment B.

Historically, blacks were land-based and survived from income generated from the land. Land was often the only source of livelihood due to their inability to gain off farm employment. This caused many blacks to invest in farmland. In 1910, blacks owned 926,000 farms and 15 million acres of land. By 1978, blacks owned less than 3.6 million acres. Today, on the average, blacks are losing land at a rate 2 and 1/2 times that of whites.

The farm foreclosure statistics are no way demonstrative of the numbers of farmers voluntarily liquidating their assets and selling

their land. I believe a conservative estimate is that for every one foreclosure, there are 2 1/2 other farmers who voluntarily quit farming. In most instances, these farmers have been threatened with foreclosure by any number of creditors, including the Farmers Home Administration and other federally funded or chartered agricultural loan programs supposedly run to aid financially strapped farm families.

Legal Services of the Coastal Plains opened in November, 1979, and shortly after opening our offices, we received inquiries and visits from dozens of limited resource landowners and farmers seeking legal assistance for land related problems. Since, we provided considerable assistance to farmers and limited resource landowners. We also have received private funding to provide community-based assistance to limited resource farmers and landowners. The critical thing about the nature of the inquiries we received then and still receive now, is that many of these problems faced by limited landowners, particularly Black farmers and landowners, relates directly to the practices and policies of the Farmers Home Administration.

There are many reasons for the dramatic decline in family owned farms generally, and black farms in particular. They usually relate to economic conditions, i.e. inflation; high operating costs or the cost of capitalizing a farm. (For example, the initial cost of establishing a medium sized farm of 125 acres is over a half million dollars, according to the United Stated Department of Agriculture.) The decline in small grain prices that has been partly fueled by the grain embargo in previous administrations has added to these problems.

The enormous capital costs of acquiring and starting even a medium-sized family farm plus the prospect of a low return on their time and investment keeps many young people out of farming. Thus, when the family farm goes out of business, either voluntary or by foreclosure, the likelihood of that family or land returning to family-based production is low to nil.

Most family farmers, black and white, are not in it for the money. Fifty-six percent of North Carolina's farmers earn less than $10,000 annually. Farming is a way of life for many people. Most farmers were brought up on farms. In many instances, the land the farmer is

working has been in the hands of his or her family for generations. The breakup of the family farm has resulted in widespread social disruption. Historic cultural patterns have been abruptly altered. In many instances, financially independent persons forced off the land end up on public assistance roles.

As stated earlier, many of the problems that small and black farmers bring to our offices relate directly to Farmers Home Administration lending practices. A persistent question we are asked is: What is the role of the Farmers Home Administration? Many farmers believe that the Farmers Home Administration gives them just enough credit and counseling to hang themselves. Persistent complaints include:

1. There is too much subjectivity in FmHA loan programs, eligibility guidelines and loan defferal options, etc.

2. FmHA lending practices often result in farmers receiving less than they need to operate for a particular year, which usually means they make a smaller yield. Black farmers routinely complain that they make their applications for loans in December and January but these loans are dispursed in April, May and June, well beyond the best planting season.

3. Failure to supervise farmers in a helpful, non-antagonistic manner. Many farmers complain that the county supervisors do not provide the kind of technical and management assistance they need but, rather deal with them harshly and in such a manner that they are often unable to meet their obligations. For example, farmers are often directed to pay proceeds of the FmHA loans to creditors in the month of February and March, when that same creditor is quite willing to be paid off in the months of September or October after the farmer has harvested. This practice results in the farmer using much of his loan to pay creditors and then being unable to acquire seed, fertilizer, fuel or repair machinery needed to plant, cultivate and harvest an adequate crop. Farmers are often given a loan in one fiscal year and for whatever reason--usually either management or productivity related--will be unable to make either interest or principal payments to the Farmers Home Administration in succeeding years. When this occurs, supervisors often will not come try to learn directly

what the farmer's problems are, then offer to help manage and otherwise how to make payments to keep his credit worthiness with the FmHA. Instead, FmHA often comes in to foreclose indicating that we have given you 1, 2, 3 or 4 years and you have not paid us anything. They will come in heavy-handed and with a very adversarial posture. I believe that if there had been discussion with the farmer earlier, methods to help him pay on his indebtedness, the need to come in and foreclose in such a heavy handed manner could have been avoided.

4. There is little or no research or activity designed to help the small farmer.

5. Many black farmers believe that they are victims of race discrimination by the Farmers Home Administration. For example, they are denied information on the availability of various loan programs. See Attachment C (Limited Civil Rights Compliance Review).

I would like to relate to this distinguised Committee specific instances involving clients our organization has represented. In February of 1980, on behalf of four black farmers, we filed a complaint of discrimination with the U.S. Department of Agriculture. The essential elements of that complaint were that a local Farmers Home Administration discriminated against black farmers in the provision of loans, the amount of loans, and that it failed to inform black farmers of loan programs, poorly supervised the accounts of black farmers, etc. A copy of that complaint is available, Attachment D. Subsequent to the filing of that complaint, one of the farmers died. His wife and son then had to file a retaliation complaint in February, 1981, Attachment E. Subsequent to that they had been informed by the Farmers Home Administration that they intended to foreclose on them. The Farmers Home Administration has also refused to permit George L. Norman, Jr. buy his mother's farm. Since 1981 this farm has not been productive because of the threat of foreclosure. The Farmers Home Administration has not initiated formal foreclosure proceedings against their family. We believe no action has been taken because the records on these lands are in shambles, the allegations and questions involving discriminatory practices in this particular county and my clients believe that the statements of accounts are inaccurate.

As a result of our initial complaint of discrimination, there was

an investigation, something which occurs rarely, and a Limited Compliance Review was issued on July 14, 1981 (Attachment C), which found "eight irregularities" in the office in question. All of the "irregularities" related directed to the elements of the complaint and substantiated most of the farmers' complaints. However, the USDA sent out a letter in June of 1981 finding no discrimination in the subject Farmers Home Administration office. In sum, we believe the rapid decline in Black farming can be related directly to practices of the Farmers Home Administration. I would refer to this Committee's attention the most comprehensive review on the issue, The DECLINE IN BLACK FARMING IN AMERICA, a report the United State Commission on Civil Rights, 1982.

RECOMMENDATIONS

We believe that this Committee should encourage Congress to do the following:

1. Conduct oversight hearings on the extent to which USDA polices and programs address the problems related to the loss of Black operated farmland and farm foreclosures.

2. Congress should enact legislation or otherwise direct the USDA to impose a moratorium on foreclosures for limited resource and family-owned farms.

3. Farmer Home Administration should revise its regulations to assure that farm loans are given to those whom Congress intended such loan programs should be made available.

4. The Congress should direct the Secretary of Agriculture to implement all USDA civil rights policies and regulations and ensure that there are systematic and effective procedures for enforcing civil rights actions. Related to this the Farmers Home Administration should require that targets for minority participation in farm programs be increased and be met at the county level.

5. The Farmers Home Administration should ensure that county committees are representative of the population of the county in which they serve. There was a 39.8% decline in the numbers of Black Committee members from 1979-1980.

6. The USDA and the Farmers Home Administration should provide

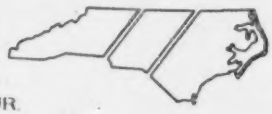
funds that will encourage minority and limited resource land owners to find alternatives for small grain and tobacco crops. Presently there is no program to encourage the small farm owners to plant vegetable crops and increase livestock operations. Small grain farming is unprofitable for the average family farmer. Approximately 75 percent of the fruits and vegetables consumed in North Carolina are imported. (USDA Marketing Survey, 1979). Approximately 65 percent of the fresh fruit, excluding peaches, sold in A&P grocery stores across the Carolina's come from the State of California. Thus, it is important and profitable for the small family farmer to be encouraged to plant vegetable and fruit crops.

7. The Farmers Home Administration needs more manpower, but also more minorities generally and in decision-making positions in particular.

In conclusion, our experiences have demonstrated a causal link between the practices of the FmHA and other federally funded or chartered lending programs and the alarming rate of increase in farm foreclosures. Legislation to protect and encourage the family farmer will enhance pure competition, maintain an historic way of life and act as a buffer against agribusiness. This country can ill afford to let the family farmer, black or white, become extinct.

ATTACHMENT A

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

WHEREAS, the North Carolina Association of Black Lawyers has established as a priority the prevention of land loss among limited resource landowners in North Carolina; and

WHEREAS, every year, 36,000 acres of top farmland is lost in North Carolina, and between 1964 and 1978, 72,000 small farms went out of business in our state; and

WHEREAS, since 1920, white farm ownership has declined about 56 percent and Black/Indian farm ownership has declined about 94 percent; so, displacement from the land looms as a threat to all small farmers in our state; and

WHEREAS, the North Carolina Association of Black Lawyers will celebrate Land Loss Prevention Week February 20-27 to educate limited resource landowners and all citizens about the ways to prevent land loss with legal help; and

WHEREAS, recognizing the unique role that lawyers must play in providing information to the public about ways to keep their land, the North Carolina Association of Black Lawyers created its Land Loss Prevention Task Force to develop and implement a comprehensive plan to combat land loss and with the support of a grant from Legal Services of North Carolina, Inc. and four of its field programs established a Land Loss Prevention Project at North Carolina Central University School of Law to provide free legal services to poor landowners; and

WHEREAS, there will be participation in Land Loss Prevention Week by the National Landowner's Association, the NAACP, the Emergency Land Fund, the National Sharecroppers Fund, the Eastern Carolina Development Coalition, Inc., A&T State University Land Ownership Project, North Carolina Central University School of Law, and lawyers, ministers, legislators, public officials and farmers; now

THEREFORE, I, James B. Hunt, Jr., Governor of the State of North Carolina, do hereby proclaim the week of February 20-27, 1983, as

LAND LOSS PREVENTION WEEK

in North Carolina and commend this observance to our citizens.

By the Governor:

James B. Hunt, Jr.

ATTACHMENT B

LANDOWNERSHIP FACT SHEET

Since the earliest days of the republic, the small farm has been a valued component of American society. Over the years it has provided a home to millions, produced significant quantities of food, and in many rural communities, towns and cities is, in effect, the economic basis upon which these areas sustain their existence. During the last several decades, however, an ominous trend in landownership has helped decimate the small family farm and rural landowner.

It is estimated that farms grossing $20,000 or less per year have declined by 1.8 million since 1960. In North Carolina, for example, between 1964 - 1978 the U. S. Census of Agriculture shows a decline of slightly over 72,000 small farms. As these figures indicate, the opportunity to own land (and farms) and to enjoy the security that ownership brings is rapidly becoming an impossible dream for limited-resource people.

While displacement from the land looms as a threat to all limited-resource farmers, minority farmers are losing their land at an even more accelerated pace, and in many instances, for different reasons.

According to the U. S. Census of Agriculture, between 1920 - 1978, minority-owned farms declined from a high of 926,000 to a low of 65,618. For this same period, landownership declined from over 15 million acres to 4.7 million acres, an overall loss of 860,382 farms and 10.3 million acres of land.

In North Carolina, where minority landownership is second only to the state of Mississippi, minority-owned farms have declined from a high of 23,514 in 1950 to the current 7,608, while landownership in general for this same period declined from 1,170,149 acres to 444,060 acres.

The primary reasons for land loss include tax sales, foreclosures by the Farmers Home Administration and other lending institutions, partition sales/ failure to write wills, eminent domain, adverse possession, and legal trickery perpetrated by unprincipled lawyers, land speculators and public officials. Also, farming is a business that often requires the assistance of a lawyer. The failure or inability of small farmers to utilize law as a tool has led to many wrong decisions and devastating results.

In the South, land continues to be the largest and most important economic resource under minority control. As a result of the problems outlined above, it is estimated that every week 9,000 acres of this invaluable resource is being lost. Should this rate of decline continue, by the year 2,000 minority farmers will be extinct. Moreover, with North Carolina's farmers in general losing 36,000 acres of prime farmland each year, the displacement from the land seems eminent for all farmers.

If you are a small, limited-resource farmer, protect your land, contact the Land Loss Prevention Project.

ATTACHMENT C

LIMITED

CIVIL RIGHTS COMPLIANCE REVIEW

OF

GATES AND HERTFORD COUNTIES

NORTH CAROLINA

Date JUL 14 1980

Approved

JAMES P. HOOD, Deputy Chief
Civil Rights Division
Office of Equal Opportunity

BACKGROUND

During the period May 27 through 30, 1980, a limited compliance review was conducted of the Farmers Home Administration (FmHA) county office in Winton, North Carolina. The Winton FmHA office serves both Gates and Hertford Counties. The scope of this review was limited to an examination of the farmer programs. The purpose of this limited compliance review was to determine whether the Winton FmHA office was administering its farmer programs in accordance with Title VI of the Civil Rights Act of 1964 and Departmental rules and regulations.

The 1970 census shows the following racial breakdown:

GATES COUNTY

Total	Black	White	Others
8,524	4,550	3,968	6

HERTFORD COUNTY

Total	Black	White	Others
23,529	12,980	10,498	51

SUMMARY

The scope of this review included a review of the loan processing cards for all farmer program applicants for the past three years. FmHA county officials, borrowers and applicants were interviewed. Selected case files were also examined. The preliminary findings were as follows:

1. Few blacks received loans where payments were deferred over a period of years.

2. There was a disparity in the number and amount of Economic Emergency loans to minorities.

3. Equal Credit Opportunity violations were applicable to all borrowers who were required to have their spouses sign instruments of indebtedness for chattels where no evidence was given that the spouse giving the signature had signed the original instrument of indebtedness.

4. At least on two occasions, minority borrowers were required to agree to voluntary liquidation as a condition before they could secure a loan.

5. Minorities waited inordinate periods between application and loan approval, especially in Gates County for the 1980 crop season.

6. There were irregularities concerning the processing of Willie Matthews' 1979 loans:

   a. Acceleration of an Emergency loan payment from seven years to one year.

b. The county supervisor's decision that FmHA would not secure a first lien on a combine if he paid off the existing first lien.

7. There was an absence of a folder containing civil rights directives and news releases of program availability.

8. There were irregularities concerning the processing of Cranston Costen's loan request.

DETAILS

The 1970 census shows that Gates County is 54 percent black. There were no black county committee persons from Gates County. Hertford County is approximately 55 percent black and is represented on the area county committee by two black members. The assistant county supervisor in the Winton FmHA office is black. There is also one CETA employee who is black. The Winton FmHA county office's employees are as follows:

GATES/HERTFORD COUNTIES

Name	Title	Race	Sex
Robert L. Daughtry	County Supervisor	W	M
Melvin Askew	Assistant County Supervisor	B	M
Adel Stanley	County Office Assistant	W	F
Rebecca C. Taylor	County Office Clerk	W	F
Betty A. Flythe	Emergency Loan Clerk	W	F

Loan Programs (Farm Loans)

The unduplicated caseload for Gates County as of September 30, 1979, was 41 farm loans. The type of loan and number of loans to each ethnic group are indicated in Table 1. For Hertford County, there were 39 farm program loans made. (See Table 1.)

GATES COUNTY

Table 1

Type of Loan	Number of Loans				Average Loan Amount	
	White	Black	Total	Other	White	Black
Farm Ownership	5	0	$ 158,000	0	$ 31,600	0
Operating Loan	11	0	144,000	0	13,090	0
Emergency	9	6	326,000	0	22,770	$23,300
Sewer and Water	0	0	0	0	0	0
Economic Emergency	10	0	494,000	0	49,400	0
TOTAL	35	6	$1,122,000	0	$116,860	$23,300

HERTFORD COUNTY

Table 1

Type of Loan	Number of Loans				Average Loan Amount	
	White	Black	Total	Other	White	Black
Farm Ownership	0	0	0	0	0	0
Operating Loan	8	10	$ 229,000	0	$14,600	$11,200
Emergency	6	3	61,000	0	7,660	5,000
Sewer and Water	0	0	0	0	0	0
Economic Emergency	8	4	751,000	0	77,000	33,700
TOTAL	22	17	$1,041,000	0	$99,260	$49,900

Farm Ownership Loans

Farm Ownership loans may be made by FmHA to eligible applicants for such things as (1) enlarging farms, (2) purchasing farms, (3) improving farms, (4) nonfarm enterprises, and (5) refinancing debts. Payments can be made over a period of years.

Gates County

An analysis of FmHA Farm Ownership loans in Gates County, North Carolina, shows that as of September 30, 1979, five Farm Ownership loans were made. These loans totaled $158,000. The average loan amount was $31,600. All loans were made to white applicants. An examination of the 405-4, "Application and Processing Card-Individual," for Gates County (FY 1979), showed that 13 applicants applied for Farm Ownership loans. Of the two black applicants that applied, one application was withdrawn and one was rejected. The loan processing card shows that three of the Farm Operating loans to whites were classified as Limited Resources. Only one white applicant for a Farm Operating loan was rejected. A further examination of the loan processing card showed that several black farmers whose financial situations dictated Farm Ownership consideration were considered for Emergency loans only. These applicants were not listed on the Farm Ownership cards.

Hertford County

In Hertford County, there were no Farm Ownership loans made during FY 1979. The application and processing card shows that 10 applicants applied for Farm Ownership loans from Hertford County during FY 1979. There were eight white applicants and two black applicants. Four applications from whites were withdrawn; three appeared to be pending; and one white applicant's

Farm Ownership loan request was reclassified as an Economic Emergency loan. Both black applicants were rejected.

Operating Loans

Operating loans are made to eligible applicants for such purposes as (1) purchase of livestock, (2) equipment, (3) feed, (4) seed, (5) fertilizer, (6) supplies for farm and home operations, (7) to refinance debts or pay interest on them, (8) pay depreciation on equipment, and (9) to make minor real estate improvements. Repayment varies from one to seven years, with possible extension up to seven years beyond the original time period.

Gates County

An analysis of FmHA Operating loans in Gates County showed that as of September 30, 1979, 11 Operating loans were outstanding. These 11 loans totaling $144,000 were made to white applicants. The average Operating loan was $13,000. The FmHA loan processing card showed five applicants for initial Operating loans. According to the processing card, four loans totaling $75,500 were closed. One was pending. No applications had been rejected or withdrawn. All applicants were white. A further analysis showed that there were seven applications for subsequent Operating loans during FY 1979. All seven applicants were white. All loans were approved and closed. Total subsequent loan funds were $68,430.

Hertford County

For Hertford County, as of September 30, 1979, there were 18 Operating type loans outstanding during FY 1979.[1/] Total loans amounted to $229,000. The average loan to whites was approximately $14,600; loans to blacks averaged $10,000. The 405-4, "Application and Processing Card-Individual," showed that eight applicants applied for initial Operating loans. All eight loans were closed. There were five black applicants and three white applicants. Initial Operating loan funds for FY 1979 totaled $90,940. Operating loans to black farmers averaged $4,788. Operating loans to whites averaged $22,333. Subsequent Operating loans during FY 1979 were made to nine applicants. All applicants were certified eligible and received subsequent Operating loans totaling $116,730. Four black and five white farmers received subsequent Operating loans. The average subsequent Operating

---

1/ Although the computer printout sheet from the FmHA finance center shows 18 Operating loans were made in Hertford County, the Application and Processing Card (405-4) showed 17 loans of which nine applicants were black and eight were white.

loan to black farmers was $16,667. The average subsequent Operating loan to white farmers was $10,012.

Limited Resource Loan

A Limited Resource applicant may be a farmer or rancher who is an operator of a small or family farm (a small farm is a marginal family farm), including a new operator with a low income who demonstrates a need to maximize farm or ranch income. A Limited Resource applicant must meet the eligibility requirements for a Farm Ownership or Operating loan, but due to low income, can not pay the regular interest rate on such loans. Due to the complex nature of the problems facing the applicant, special help will be needed and more supervisory assistance will be required to assure reasonable prospects for success. The applicant may have such problems as underdeveloped managerial ability, limited education, a low-producing farm due to lack of development or improved production practices, and other related factors. The applicant will not have, nor be expected to obtain without the special help and low interest loan, the income needed to have a reasonable standard of living when compared to other residents of the community.

Black farmers in Gates County were unaware of the Limited Resource type of assistance available through FmHA.

Emergency Loans

Emergency loans are made to eligible farmers or ranchers in designated areas where natural disasters such as floods and droughts have brought about a temporary need for credit not available elsewhere. Gates County was declared a disaster area in both the 1978 and 1979 crop years. Crop loans are due and payable within the crop year.

Gates County

An analysis of FmHA Emergency loans in Gates County, as indicated by FmHA computer printout, showed that as of September 30, 1979, 15 Emergency loans were outstanding. These 15 Emergency loans totaled $326,000. There were nine Emergency loans to white farmers and six Emergency loans to black farmers. The average Emergency loan for white farmers was $22,777. The average Emergency loan to black farmers was $20,333. The Farmers Home Administration loan processing card showed 10 applicants applied for initial Emergency loans during FY 1979. There were seven white applicants and three black applicants. One white applicant was rejected and one withdrew

his application. All three blacks were approved for loans. The loan amount to blacks averaged $47,366.[2/] Initial loans to white applicants totaled $210,540. The average initial loan to whites was $42,108. Although a review of the loan processing cards revealed that blacks and whites were receiving comparable loans, a close examination of the office's loan activity reflects that loans to blacks were limited to the Emergency Crop Loan Program and were repayable at the end of the crop year. (Willie Matthews is an exception. See further explanation with details regarding Mr. Matthews in this report.)

Hertford County

For Hertford County, there were five initial Emergency loan applicants for FY 1979. Four were white farmers and one was a black farmer. As indicated in Table 1, Emergency loans to white farmers averaged $7,660, while the Emergency loan to the sole black farmer was $12,000.

Soil and Water Loans

Soil and Water loans are made to assist the land occupant in the improvement, protection, and proper use of his farm land by providing adequate financing for (1) soil conservation, (2) water development, (3) conservation and use, (4) forestation, (5) drainage of farm land, and (6) the establishment and improvement of permanent pasture and related measures.

As of May 30, 1980, there were no Soil and Water loans in either Gates or Hertford Counties.

Economic Emergency Loans

The objective of Economic Emergency loans is to make adequate financial assistance available during the period authorized by Title II of Public Law 95-334, as amended, and FmHA Instruction 1945-C (authority expires September 30, 1981), in the form of loans insured or guaranteed by FmHA for bona fide farmers and ranchers who are primarily and directly engaged in agricultural production so that they may continue their farming or ranching operations during the economic emergency which has caused a lack of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities. Repayment is generally deferred or annualized over a period of years.

2/ The amount of $47,366 is not a true average in that a $40,000 loan reflected by the loan processing card was not made. Further details on this loan is under separate heading. See section of this report on Willie Matthews.

Gates County

An analysis of FmHA Economic Emergency loans in Gates County showed that as of September 30, 1979, there were 10 Economic Emergency loans outstanding. These 10 Economic Emergency loans, totaling $494,000, were made to white farmers. The average Economic Emergency loan was $49,400. The Farmers Home Administration loan processing card for FY 1979 showed 11 initial applicants for Economic Emergency loans. All 11 applicants were white. Seven applicants received loans totaling $328,620. The average Economic Emergency loan amount was $46,945. Of the 11 farmers that applied, two were rejected and two withdrew. The 405-4 loan processing cards showed that four farmers applied for subsequent Economic Emergency loans. Two of the four received subsequent Economic Emergency loans totaling $39,000.

During interviews with six black Gates County farmers, it was revealed that none knew of the Economic Emergency Loan Program. It was further revealed that most had farm experience in excess of 10 years, owned farm equipment and farm land amassed via rental and/or ownership of 150 acres or more. In contrast, one white, 21-year-old Economic Emergency borrower, owning no land, was granted in FY 1979 an Economic Emergency loan in the amount of $137,000 to purchase a 30 acre farm and establish a specialized swine operation. In FY 1980, this same borrower, according to the records, received another Economic Emergency loan in the amount of $110,000.

One black farmer stated during an interview with reviewers, that he had personally inquired of the county supervisor as to whether FmHA administered any loan program which might assist persons who were experiencing economic hardships as a result of high and unexpected production costs. According to the farmer, the county supervisor advised that he had no such program and further suggested that the farmer secure off-farm employment.

By signed statement dated April 16, 1980, taken by George Leonard, Equal Opportunity Specialist, the county supervisor stated that during a December 1979 review of a black farmer's loan, the farmer asked what were the alternatives for a person in his financial situation. After some discussion, the farmer was advised by the county supervisor that he could use the county supervisor's name to secure employment with the Purdue Chicken Company. The statement also states that the above suggestions were offered only as alternatives in response to the farmer's questions. (See Exhibit 1.)

At no time during the discussion was the farmer advised of the Economic Emergency Loan Program.

On May 30, 1980, during the course of the review, the FmHA publications rack was examined. Although publications were available for most of the FmHA loan programs, no such information was on display concerning the Limited Resource and Economic Emergency Loan Programs.

On June 6th, at the time of the exit conference, the FmHA Public Information Display Rack was again examined. On this occasion, the information was available with reference to both the Limited Resource and Economic Emergency Loan Programs.

Hertford County

In Hertford County, FmHA records showed that as of September 30, 1979, there were 12 [3/] Economic Emergency loans outstanding, totaling $751,000. According to the loan processing cards, there were eight Economic Emergency loans to white farmers and three Economic Emergency loans to black farmers. The average Economic Emergency loan to white farmers in Hertford County was $77,000. The average Economic Emergency loan to black farmers in Hertford County was $45,100. Twelve farmers applied for initial Economic Emergency loans. There were three black and eight white applicants. One application was pending.

In an interview with the County Supervisor, Mr. Robert L. Daughtry, the question was asked, "What methods do you utilize in informing the surrounding minority community of the nature and availability of FmHA services?" Mr. Daughtry answered that the following newspapers have carried information about FmHA programs in the past: The Parker Brothers; The Herald; and The Gates County Index. He further stated that his office did not maintain a public information file and he did not know the last time an article appeared in the local paper. He also stated that he has not recently appeared before any minority groups or organizations to speak about FmHA programs. Mr. Daughtry remembers that he spoke before a black organization, the Assembly, several years ago.

Equal Credit Opportunity Act

During the interview with the county supervisor and his assistant, the assistant county supervisor stated that he made loans to female borrowers; however, if they were married, their husbands would be required to sign the

---

3/ The computer printout sheet shows, as of September 30, 1979, that there were 12 outstanding loans. However, the loan processing card reveals 11 such loans.

note which secured the loan. The assistant county supervisor offered that the husband would be required to sign if the parties lived separate and apart. The county supervisor further stated that if a young couple applied for a Rural Housing loan, he would restrict them to a two-bedroom house regardless of whether the applicant wanted and could pay for a three-bedroom dwelling. He further stated that the age of the applicant influenced the size of the house.

While conducting the exit conference, it was revealed by counsel for the county supervisor that pursuant to North Carolina law, a husband was required to sign all notes of indebtedness for the financing of real estate.

Chapter 52, Section 1, of the North Carolina General Statutes provides as follows:

> § 52-1. Property of married persons secured. -- The real and personal property of any married person in this State, acquired before marriage or to which he or she may after marriage become in any manner entitled, shall be and remain the sole and separate estate and property of such married person and may be devised, bequeathed and conveyed by such married person subject to such regulations and limitations as the General Assembly may prescribe...

Chapter 52, Section 2, provides:

> § 52-2. Capacity to contract. -- Subject to the provisions of G.S. 52-6, ... and other regulations and limitations now or hereafter prescribed by the General Assembly, every married person is authorized to contract and deal so as to affect his or her real and personal property in the same manner and with the same effect as if he or she were unmarried...

The limitation in 39-7 is as follows:

> § 39-7. Instruments affecting married person's title; joinder of spouse; exceptions. -- (a) In order to waive the elective life estate of either husband or wife as provided for in G.S. 29-30, every conveyance or other instrument affecting the estate, right or title of any married person in lands, tenements or hereditaments must be executed by such husband or wife, and due proof or acknowledgement thereof must be made and certified as provided by law.

After a close reading of the above cited chapters of the North Carolina General Statute, it should be concluded that married women and men must sign not the instrument of indebtedness, but the instrument of transfer. As a practical matter, lenders probably will not lend if they suspect problems in conveyances or reconveyances.

Voluntary Liquidations

Record review reflected that two black FmHA borrowers were required to agree to voluntary liquidation prior to the securement of a loan. Although the county supervisor stated that the above requirement was within FmHA

policy, record review failed to disclose that any other borrower had to agree to voluntary liquidation prior to their receipt of an FmHA loan. (See Exhibit 1.)

Loan Approval Time

A review of applicable FmHA records showed that with the exception of blacks in Gates County, action on loan applications was timely taken. However, for black farmers in Gates County, the record reveals that as of the date of the review, four applications from minorities had been acted on. One was denied and under appeal; two were approved; and one was withdrawn. The application process period varied from a period of 20 to 90 days. Several farmers had not received action on their loan requests as of the date of the review.

In addition to the review's focus on the general loan activity of the local FmHA office, it also included the individual loan and application files of the following FmHA applicants and borrowers:

Armstead Sharp

Mr. Sharp applied for an Emergency loan on November 3, 1979, in the amount of $7, 740 for capital expenditures. The FmHA county supervisor appraised Mr. Sharp's chattels at $11,000. Mr. Sharp offered his chattels as security for the $7,740 loan. The running case notes show that on February 4, 1980, the FmHA county supervisor visited the applicant's farm and made the following comments:

1. Made chattel appraisal.
2. Visited farm - equipment not well stored not under shelter.
3. Has some livestock for home use and family living.
4. Applicant has the resources to make yields as planned.
5. Left F.S. for "A" & wife to sign and return with check for $19.00 for lien search fee and recording fee.
6. "A" said wife may not sign F.S. S.A. & note. He will advise on this at office - I told "A" spouses signature is needed.

It appeared that on February 4, 1980, the FmHA county supervisor was seriously considering making Mr. Sharp a $7,740 Emergency loan secured by his chattels. However, on Februáry 12, 1980, the county supervisor stated: "Reviewed S.A. with applicant - he did not want to give a lien on crop. This was deleted from the F.S. & S.A. The equipment shown on the S.A. is in poor condition and is poorly stored. I discussed this with him and inquired about additional security such as a 2nd lien on the 4 drying trailers. He wanted to consider the matter further." The county supervisor went on to state: "In my opinion the loan will not be secured over the 5 years without a crop lien or additional security. Some of the items will be junk in 2 or three years - Hold until "A" considers the additional security."

Since Mr. Sharp would not agree to giving FmHA additional security, his loan request was withdrawn by the FmHA county office on March 20, 1980.

During an interview with Mr. Sharp, he stated that he did not want to go through with the loan because he felt that the security he offered was sufficient enough. He further stated that he was not asked about whether his wife had signed the original notes of indebtedness concerning the property which he had placed for collateral for the FmHA loan. He was just told that his wife's signature was needed.

When the county supervisor was queried about Mr. Sharp's loan request and the signature of his wife, the county supervisor stated that he often asked for the signature of an applicant's wife when farm equipment was put up as the collateral for the loan. This statement was substantiated by interviews with other farmers. The county supervisor's attorney was asked about North Carolina law on this subject and he opined that pursuant to North Carolina law, wives had to sign the instrument of indebtedness for real estate transactions, but that this was not true of loans involving personalty.

Willie E. Matthews

In March of 1979, Mr. Willie Matthews was approved for an Emergency loan. The amount of the loan was $37,100, and the interest rate was three percent. Mr. Matthews was also approved for an Emergency Production loan for $40,000. The interest rate was eight percent. The $37,100 Emergency loan was to be repaid over a period of seven years, and the $40,000 loan was to be repaid at the end of the crop year. Both loans were to be secured by (1) a crop lien and (2) one John Deere combine. The county supervisor stated that subsequent to loan closing, he contacted the John Deere Company regarding Mr. Matthews' delinquency on a combine. The county supervisor was advised that if Mr. Matthews would pay the delinquency, the Production Credit Association would acquire a first lien. According to the county supervisor, Mr. Matthews was notified of this new development and he was informed that his loan was going to be reduced from $40,000 to $19,000, and that the entire amount of both loans would be due and payable at the end of the 1979 crop year. The county supervisor further stated that he advised Mr. Matthews that his Emergency Loss loan would be changed from seven years to one year. In essence, Mr. Matthews' Emergency Loss loan was accelerated and he was required to sign a supplemental payment agreement.

As a condition to the making of further loans to Mr. Matthews, the county supervisor required him to agree to voluntary liquidation on November 1, 1980, if substantial progress is not made on his debts.

It was noted that Mr. Matthews was the only borrower for whom the FmHA county supervisor had accelerated the repayment period. One other black borrower was required to agree in writing to voluntary liquidation as a condition precedent to obtaining further loans.

Mr. Matthews was interviewed and stated that he had been advised by Mr. Harry Lee Winslow, Vice President of the Production Credit Association, that if FmHA refinanced the combine, FmHA would become the first mortgagee on the combine. Mr. Matthews' statement was substantiated by a letter dated March 22, 1979, bearing the letterhead of the Albermarle Production Credit Association, and signed by Mr. Harry Lee Winslow. (See Exhibit 2).

During the review, the manager of the John Deere Equipment Company was contacted. He stated that he had never spoken

to anyone with reference to the combine in question. Mr. Harry Winslow was contacted and he stated that the Production Credit Association would subordinate any interest they had in the combine, provided the FmHA paid off the John Deere Equipment Company.

The county supervisor was asked during the course of the review of the transaction as outlined above and he responded that he misinterpreted the letter from the Production Credit Association, and he thought that if he would have paid the John Deere Company, the Production Credit Association would have held the first lien. (See Exhibit 1.)

Cranston Costen

Mr. Cranston Costen applied for a $236,000 loan in October 1979. Mr. Costen owns a 256 acre farm and planned to farm 100 acres of corn and 150 acres of soybeans. The Farm and Home plan shows Mr. Costen's farm was valued at $220,000. His total property owned is valued at $344,900. His debts totaled $235,400, leaving him a net worth of $109,440. (See Exhibit 5.)

On November 15, 1979, Mr. Costen was advised by the county supervisor that the present indebtedness on his farm, together with the amount of credit requested, would result in a loan considerably in excess of the normal earning capacity that could reasonably be expected.

The above determination was based on a yield per acre of 78 bushels of corn and 24 bushels of soybeans. The county average for corn showed yields between 85-90 bushels per acre. The ASCS county executive director certified that Mr. Costen's farm had the following yields for corn:

Year	Yield
1975	90
1976	89
1977	86
1978	85

Based upon these yields, the Farm and Home plan should have shown at least the county average of 85 bushels per acre. (See Exhibits 3 and 4.) In addition, Mr. Costen's cleared acreage was appraised at $800 per acre. The uncleared acreage was appraised at $280 per acre. Comparable farm land around him was appraised at between $1,500 and $1,600 per acre.

Interview with the county supervisor indicated that the average price of land per acre was $1,000 plus. Interviews with farmers and business persons in the community placed land values at a low of $950 to a high of $2,500 or more. Of the more than 10 people interviewed, none placed land values as low as the county supervisor had placed on the Costen farm.

RECOMMENDATIONS

The county supervisor should:

1. Initiate outreach efforts which inform minorities of all programs administered by the Farmers Home Administration.

2. Process all applications for FmHA assistance in a timely manner as mandated by FmHA Instruction 1910-A.

3. Maintain a folder on all civil rights directives and public information.

4. Document the running records with reasons for requiring loan applicants to agree to voluntary liquidation as conditions for loan approval.

5. Refrain from counseling loan applicants to sell their farm holdings and secure off-farm employment.

6. Develop targets to increase minority participation in all farm programs.

The district director should:

1. Review the loan applications of the following applicants:

   a. Willie Matthews, and

   b. Armstead Sharp.

2. Provide training concerning the Equal Credit Opportunity Act for all county office personnel.

UNITED STATES DEPARTMENT OF AGRICULTURE
COMPLAINTS AND APPEALS STAFF
OFFICE OF EQUAL OPPORTUNITY

REPORT OF INVESTIGATION

TITLE	FILE NUMBER	DATE
Robert L. Daughtry County Supervisor Farmers Home Administration Ahoskie, North Carolina Alleged Racial Discrimination	C-126-80	July 14, 1980
	E. O. SPECIALIST: George Leonard	
	TYPE OF INVESTIGATION: Direct Assistance	

SUMMARY

This investigation was predicated upon a written complaint of racial discrimination by Mr. John W. Garland, Chief Counsel/Co-Director, Legal Services of the Coastal Plains, on behalf of Messrs. Cranston S. Costen, Charlie Gatling, Willie Matthews and George L. Norman. The above complainants alleged that Black farmers in Hertford and Gates Counties are never approved for loans in the full amounts requested and White farmers receive the requested amount.

The investigation revealed that a review of the 19 Black and 21 White Operating Loan (OL) borrowers' files showed loan approvals for the full amounts requested for family living and operating expenses. All, except two borrowers, were approved for the full amounts requested for capital expenditures.

The investigation disclosed that Mr. Willie Matthews submitted an application to FmHA for the first time in January 1979, to consolidate his bills and to operate his farm. He was approved for two loans for $37,100 and for $40,000 and the loans were closed on March 22, 1979, for a total of $77,100. The $37,100 loan was scheduled to be repaid over a period of seven years and the $40,000 was to be repaid in one year.

The running record indicated that some of the $77,100 loan was to be used to refinance Mr. Matthews' combine. The County Supervisor stated that subsequent to loan closing he contacted the John Deere Company concerning the delinquency on Mr. Matthews' combine and they (John Deere) agreed to continue carrying Mr. Matthews' account if he would pay the delinquent amount. The investigation showed that the $40,000 loan was reduced to $19,400, reducing the total loan to $56,500. Also, the delinquent loan amount was paid to the John Deere Company.

DISTRIBUTION

cc: 1 Administrator, FmHA
3 copies - Equal Opportunity Officer
Farmers Home Administration
3 copies - Office of Equal Opportunity

APPROVED:

Chief, Complaints and Appeals Staff

This document is FOR OFFICIAL USE ONLY. It and its contents are not to be distributed outside your agency, nor duplicated without prior clearance from the Office of Equal Opportunity, OEO.

The investigation showed that the $37,100 loan was accelerated from seven years to one year. The County Supervisor stated that he could not obtain a first lien on Mr. Matthews' combine and the only security of value left was crops and that he had to reschedule the repayment time to when Mr. Matthews' crops were sold.

The investigation showed that Mr. Matthews paid the FmHA $32,338 from the proceeds of his 1979 crops and the entire amount was credited to the 3.0% interest $37,100 loan. The County Supervisor stated that he could have credited the payment to the 8½% interest or the 3.0% interest loan since they were both due in one year. The investigation disclosed that as of January 1, 1980, Mr. Matthews was $26,098.13 delinquent with FmHA. Mr. Matthews filed an application with FmHA on March 18, 1980, to consolidate his debts and to farm and no decision had been reached by the County Supervisor. As a prerequisite for a 1980 loan the County Supervisor has required Mr. Matthews to obtain nondisturbance agreements from his creditors and has required him to agree to voluntary liquidation on November 1, 1980, if substantial progress is not made on his debts.

The investigation disclosed that Mr. George L. Norman has been a FmHA borrower since 1963 and that the County Supervisor has refinanced his debts on three occasions. Operating loans were approved for him in 1978 for $44,500 and for $28,000 and in 1979, he was approved an OL loan for $29,500. The investigation showed that as of January 1, 1980, he was two years delinquent with FmHA in the amount of $36,842.

Mr. Norman has applied for a FmHA loan to refinance some of his debts and to operate with during 1980. The County Committee has certified him eligible for a $25,000 loan; however, no decision has been reached by the County Supervisor. As a condition of a loan the County Supervisor has required Mr. Norman to agree in writing to voluntary liquidation on November 1, 1980, if substantial progress is not made on his debts.

The County Supervisor stated that he has made the voluntary liquidation requirement of other borrowers on an oral basis.

The investigation revealed no record of Mr. Cranston Costen applying for FmHA services prior to October 15, 1979. His October 15, 1979, loan application for $178,600 was submitted to consolidate his debts and to operate his farm on a long term basis. His application was rejected by the County Committee on the basis that the requested loan was in excess of the earning capacity of his farm. Mr. Costen appealed the Committee's decision. A hearing was held and the decision was upheld. He has appealed to Washington where his case is currently being reviewed.

The investigation disclosed that Mr. Charlie Gatling is not currently an FmHA borrower and that he last borrowed from FmHA in 1971.

* * * * *

DETAILS

This investigation was predicated upon a written complaint by Mr. John W. Garland, Chief Counsel/Co-Director, Legal Services of the Coastal Plains, on behalf of Cranston S. Costen, Charlie Gatling, Willie E. Matthews and George L. Norman. The above complainants alleged that loans for Black farmers in Hertford and Gates Counties are never approved for the full amounts requested and that White farmers are approved for the amounts they request. It was further alleged that the inability of Black farmers to obtain loans in amounts they need to operate or live on results in Black farmers carrying a higher debt ratio than White farmers. A copy of the complaint in which other allegations are made is attached to this report as Exhibit 1.

Mr. John Garland was interviewed and provided the following information:

Mr. Charlie Gatling stopped dealing with FmHA in 1971 because of frequent problems encountered with the County Supervisor.

Cranston Costen has been retaliated against because he has helped to defend the rights of other Black farmers. Mr. Costen had received several FmHA loans prior to his involvement with helping other Black farmers.

The County Supervisor's reputation is extremely poor and it prevents Blacks from seeking assistance from FmHA.

The statue permits FmHA to excuse loans of borrowers who cannot repay the loan. Blacks however are not informed of this statue.

There have been complaints similar to the above from Blacks in Halifax, Northampton, Bertie, Chowan, and Perquimans Counties, North Carolina. Mr. Clifton Grimes and Mr. Haywood Harrell have the written complaints.

He has no personal knowledge of any of the complaints and suggested that the reporting specialist interview Reverend H. L. Mitchell.

Mr. Frank Adams, Community Education Specialist, Legal Services, was interviewed and provided the following information:

Black organizations are not contacted by the County Supervisor. The County Supervisor was invited to speak at the Assembly of Gates and he ignored the invitation. He only attends and speaks at clubs and organizations that have no minority participation, such as the Rotary Club.

Mr. Willie E. Matthews was interviewed and provided a signed statement dated April 5, 1980. A copy of his statement is attached as Exhibit 2.

Mr. Matthews stated substantially as follows:

In January 1979, he submitted an application to the Farmers Home Administration (FmHA) for the first time to consolidate his bills and to operate his farm. The application was approved and on March 22, 1979, he signed promissory notes for a $37,100 Disaster loan and a $40,000 Operating loan for a total of $77,100. The $37,100 note was to be repaid in seven years beginning December 1979, at 3% interest and the $40,000 note was to be repaid in one year at 8½% interest.

He went to the FmHA office at the request of the County Supervisor on March 26, 1979, and signed a form that he thought was a release for the balance of his loan. It turned out however, that he was signing a Supplemental Payment Agreement which stated he was to repay the $37,100 loan in one year instead of seven years as originally agreed upon.

Although the total amount of both loans were approved for $77,100, only $56,000 was deposited into his supervised bank account by the County Supervisor.

In 1979 he paid the County Supervisor more than $32,000 from the proceeds of his crops. The entire amount

was credited to the seven-year Disaster loan which made the one-ye[illegible]perating loan appear to be delinquent.

Several of the bil[illegible] he submitted to the County Supervisor were not [illegible] in full and his creditors are asking for their money.

At the end of the 1979 crop year, the County Supervisor told him he should sell his house and that he could borrow $50,000 from FmHA to build another home. He, (County Supervisor) also said that he could use his name as a reference to get a job with the Purdue Chicken Company in Hertford County. He believes the County Supervisor wants him out of the county so that White farmers can buy his farm land.

He has applied for a $40,000 FmHA loan to consolidate his debts and to operate his farm during 1980. The County Supervisor has notified him that he would consider making him a loan to pay the actual crop producing expenses; however, he wants him to obtain a Nondisturbance agreement from all his creditors. In addition, he wants to put a lien on all of his property. Some of his creditors have refused to sign the Nondisturbance agreement forms.

He had disasters in 1978 and in 1979.

The County Supervisor has treated him disrespectfully many times. He would write when he (Matthews) was trying to talk to him; he would throw his pencil down on his desk.

He believed that White farmers are getting all of the money they are asking for.

An entry in Mr. Matthews' running record dated January 29, 1979, shows a proposed Production Loss loan for $37,100 at 3% interest and a Production loan for $20,000 at 8½% interest. Both loans were due to be paid in one year. The running record indicates that the above loans were to be secured by a first lien on all crops. Approval was subject to Production Credit (PCA) signing a Nondisturbance agreement. See Exhibit 3.

Another entry in the file dated February 1, 1979, indicates that Mr. Matthews requested that his proposed loan be reconsidered. He wanted the Production Loss loan to be used to refinance his combine, giving him seven years to repay it and the remainder of the funds were to be used to pay his creditors who supplied him machine repairs and services.

The running record shows another proposed loan was drawn up on February 1, 1979, in which the Production Loss loan remained at $37,100, but it was scheduled to be repaid in seven years. The Production loan was increased from $20,000 to $40,000. Both loans were to be secured by a first lien on all crops and a first lien on the combine. See Exhibit 4. The file showed Mr. Matthews signed promissory notes on March 22, 1979, totaling $77,100.

An entry in the running record dated March 26, 1979, states that Mr. Matthews could not give a first lien on the combine and that the Production loan was being reduced to $19,400. The entry further states that the Production Loss loan was due on January 1, 1980. The file shows that a Supplemental Payment Agreement was signed by Mr. and Mrs. Matthews on March 26, 1979, agreeing to repay the Production Loss loan in one year.

The running record dated December 31, 1979, states that if a loan was made to Mr. Matthews for 1980, he would be required to sign a statement agreeing

to voluntary liquidation in the fall of 1980 unless substantial progress on the loan was made. See Exhibit 5.

Mr. Robert L. Daughtry, County Supervisor, was interviewed and provided a signed statement dated April 16, 1980. A copy of his statement is attached as Exhibit 6.

Mr. Daughtry advised substantially as follows:

> We do not lend to any one the entire amount of money that is requested to farm with, Black or White. The amount of loans is based on a Farm and Home Plan which shows the need for the amount of the loans and the income available to make repayments. Applicants are expected to supplement the money they think they need to operate their farms when income is not sufficient to pay farm operating, family living expenses and repay their debts including the proposed loan
>
> In March 1979, Mr. Willie Matthews was approved for an Emergency Loss (EL) loan for $37,100 at 3% interest and also an Emergency Production loan for 40,000 at 8½% interest to operate his farm. The $37,100 Emergency Loss loan was to be repaid over a period of seven years and the $40,000 Emergency Production loan was to be repaid in one year. Subsequent to the above loan closings, he contacted the John Deere Company regarding Mr. Matthews' delinquency on a combine. They (John Deere) stated that if Mr. Matthews would pay the delinquent amount they would continue to carry the account. Mr. Matthews was then notified of this new development and he was informed that they (FmHA) were going to reduce the $40,000 loan to $19,000 and that the entire amount of both loans would be due and payable at the end of the 1979 farm year. He informed Mr. Matthews that his Emergency Loss loan would be changed from seven years to one year.
>
> When it was initially proposed that the $37,100 Emergency Loss loan be repaid over a period of seven years, it was based on Mr. Matthews being able to give FmHA a first lien on his combine. He was unable to give FmHA a first lien. The Production Credit Association (PCA) was claiming a first lien because he traded in the combine on which they had a lien. The only security of value left was crops and the loan had to be rescheduled for repayment when the crops were sold. Consequently, he had Mr. and Mrs. Matthews sign a Supplemental Payment Agreement, and he thought they understood what they were signing. Mr. Matthews is the only OL borrower for whom he has accelerated the repayment period from 7 years to one year. He (County Supervisor) had an alternative to accelerating the repayment time. He could have canceled the loan and reprocessed another loan. Reprocessing takes time and since it was getting so late in the year, he decided rescheduling was the best thing."
>
> Some of Mr. Matthews' loan funds were to be used for 1979 crop production expenses and the remaining funds were to be used as partial payments to some of his creditors. It was initially agreed that the creditors listed in Mr. Matthews' running record dated January 26, 1979, (See Exhibit 7) would be paid in full.
>
> After making a payment to the John Deere Company to bring Mr. Matthews' account current, he divided the remainder of the funds among his most urgent creditors. He (Matthews) agreed to doing this.
>
> Mr. Matthews paid FmHA $32,338 from his 1979 crop proceeds on December 7, 1979, and the entire amount was credited to his 3.0% interest Emergency Loss loan. When Mr. Matthews

made the payment, he (County Supervisor) was unaware that he would be unable to repay both loans. He could have credited the payment to either of the loans since both were due in one year.

In December 1979, during a review of Mr. Matthews' loan in which the District Director, a loan officer, and he (County Supervisor) were present, Mr. Matthews asked what were the alternatives for a person in his financial situation. He also stated that he loved to farm and that farming was what he knew how to do best. Someone in the above mentioned group suggested that he could sell out. He (County Supervisor) informed Mr. Matthews that some FmHA borrowers had failed in the past; that they sold their assets; paid FmHA what they could afford; and FmHA settled their FmHA loans. Subsequently, when the borrowers had established their income sufficiently to make FmHA house payments and maintain a reasonable standard of living, FmHA made them a home loan. He advised Mr. Matthews that he could use his name as a reference to get a job with the Purdue Chicken Company. The above suggestions were offered only as alternatives in response to Mr. Matthews' question to what he could do if he no longer farmed.

He had advised both Black and White OL borrowers who were in a financial bind with more debts than they could repay to sell out. Mr. Lonnie Skinner, a White OL borrower, took his advice. He liquidated and he has since obtained a job as a welder.

Mr. Matthews filed an application with FmHA on March 18, 1980, for a loan of $235,049 to consolidate all of his debts. He also requested $41,900 to operate his farm during the 1980 crop year. No decision has been reached.

As a prerequisite for considering an operating loan, he required Mr. Matthews to obtain a Nondisturbance Agreement from all of his major creditors. As of January 1, 1980, Mr. Matthews was delinquent by $26,098.13 on his FmHA loan.

As a condition for obtaining a loan, he has required Mr. Matthews to agree to voluntary liquidation on November 1, 1980, if substantial progress is not made on his debts.

He has only required a few borrowers to obtain Nondisturbance Agreements from their creditors. They do this when a creditor is about to foreclose on a borrower. He has required Mr. C. J. Liverman who is White to obtain the above mentioned agreement from his creditors as a condition for obtaining a loan.

Mr. George L. Norman was interviewed and provided a signed statement dated April 5, 1980. A copy of his statement is included in this report as Exhibit 8.

Mr. Norman stated substantially as follows:

He has borrowed money from the Farmers Home Administration (FmHA) to operate his farm since 1963. From 1968 until 1975, he farmed and ran a hog operation which consisted of 2,500 to 3,000 hogs.

He has never obtained the amount of money from FmHA that he requested and needed to operate his farm. He has run out of money every year since 1975 before his crops were housed.

In 1970 he applied for $23,000 to build a finishing floor for his hog operation and Mr. Daughtry (County Supervisor) loaned him only $15,000. Between 1968 and 1978 the County Supervisor refinanced loans for him on three occasions.

At the end of 1974, he was supposed to pay FmHA $8,000 which was the balance on his Operating loan. He came up short, however, and the County Supervisor advised him that he could not lend him any more money until he paid the remainder of the loan. He had to sell his cattle and hog breeding stock and turn over the proceeds to the County Supervisor so that he could borrow money for the 1975 crop year. He was subsequently approved for a loan of $27,000 which he felt was insufficient.

It is the County Supervisor's responsibility to have peanut cards marked when the peanut crops are sold so that FmHA gets paid before other lenders or creditors can get their money. In 1974 his peanut card was not marked and Mr. J. Parker, one of his creditors, was able to collect his money first. He did not have enough money left to pay FmHA and his account became delinquent.

In December 1979, the County Supervisor suggested that he may want to consider selling out, and further advised that FmHA would build him a house in Edenton, North Carolina where his (Norman) wife worked. He (Daughtry) has suggested that he sell out since 1975. He felt that the County Supervisor wanted him to sell out so that Whites could buy his farm. Several Black farmers sold out in the 1960's because they could not borrow the money they requested to operate their farms.

He submitted an application to the FmHA in February 1980 for an Operating loan and his application is still pending. His loan application was for $41,000 to produce the 1980 crops and for family living expenses. The County Supervisor wants to lend him only $25,000, of which $5,500 would be used to pay off back debts and no living expenses were included. He felt that $19,500 is not enough to produce a crop.

As a condition for obtaining a loan for 1980, Mr. Don Norman (District Director) wanted him to sign a statement agreeing to voluntary liquidation on November 1, 1980, if a certain amount is not paid by then on his debts. He did not agree to signing the statement. He is re-thinking his decision and may accept the $25,000.

He believed that White farmers are getting the full amount of loans they request because he is on food stamps and they are not. He felt he was just as good a farmer as Whites.

From 1963 until 1968 his FmHA loan accounts were supervised, and from 1974 until 1977 his FmHA accounts were unsupervised. For the past two years, at the suggestion of Mr. Don Norman, District Director, his accounts have been supervised.

He has never had any problem with the correct amount of his FmHA loan being deposited into his account. The County Supervisor has always paid the full amount of bills that he submitted. The County Supervisor has never attempted to supervise his farming operations on a day-to-day basis and has never treated him with disrespect.

Mr. Norman's file was reviewed and it showed that he has been approved for loans to refinance his debts, purchase farm land and to operate his farm.

According to some of the Farm and Home Plans reviewed in his file, he was approved for Operating loans in 1978 for $44,500 and for $28,000, and for $29,500 in 1979.

The records showed that the County Supervisor recommended debt settlement for Mr. Norman in 1977 due to several reasons. See Exhibit 9.

The Report of Delinquent FmHA Borrowers was reviewed and it showed that as of January 1, 1980, Mr. Norman was $36,842 delinquent with FmHA and that he has been delinquent for the past two years.

The County Supervisor stated substantially as follows:

> Mr. George Norman has been a FmHA borrower for several years and he has filed an application with FmHA to obtain funds to operate his farm during the 1980 crop year. Mr. Norman desires a loan to pay the Tarheel Bank & Trust Company and he wants FmHA to continue to carry his delinquency of $36,697. The County Committee has certified him eligible for a $25,000 loan; however, no final decision has been reached on his application.
>
> He has discussed a Farm and Home Plan with Mr. Norman and he advised him that if a loan is made, no funds would be included for family living expenses. Any additional funds over what is actually needed to oeprate with would only make his repayment ability worse.
>
> He advised Mr. Norman that as a condition for obtaining a 1980 loan, he would be required to agree to voluntary liquidation on November 1, 1980, if substantial progress is not made on his debts. The above requirement is within FmHA policy and he has in the past made this requirement orally with other FmHA borrowers.
>
> He has counseled Mr. Norman several times in the past to sell out because of his continued bad financial condition and because of his poor health.
>
> He has never assumed the responsibility of selling a borrower's peanut crop. However, the incident concerning Mr. Norman's peanut card not being marked to show the FmHA lien did occur. It could have been his error or it could have been an error made by ASCS.

Mr. Cranston Costen was interviewed and supplied a signed statement dated April 5, 1980. A copy of his statement is attached to this report as Exhibit 10.

Mr. Cranston stated substantially as follows:

> He tried to get a Farm Ownership loan from the FmHA in Ahoskie, North Carolina in 1970 and was rejected. He eventually obtained a loan from the Federal Land Bank and the Production Credit Association to purchase the farm.
>
> He tried to get a loan from FmHA in 1972 to farm with and he was not even allowed to have an application. The County Supervisor, Robert Daughtry, told him that his best bet would be to sell out because his debts were too big.
>
> He farmed on a full-time basis until the end of 1978, with money he borrowed from Production Credit and the Federal Land Bank. He was unable to make any payments to Production Credit at the end of 1978 due to a crop disaster and they currently have two judgments against him.

He did not farm in 1979, and he wants to farm this year (1980). Production Credit would not lend him any more money because his wife would not sign for the loan.

His attorney talked to the County Supervisor and he was allowed to fill out an application on October 15, 1979, to consolidate his debts and to operate his farm. His application was for $236,000 and he planned to farm 257 acres of land.

The County Supervisor came out and looked over his farm and appraised it's value at $200,000. He was offered $300,000 in 1976.

On November 15, 1979, the County Supervisor called him and stated that the County Committee's decision was that the present indebtedness on his farm, together with the amount of credit requested, would result in a loan considerable in excess of the normal earning capacity that could be reasonably expected. Also, because he could not produce enough to repay the loan. They (County Committee) based his production on the county average and the county average for corn showed yields from 85 to 90 bushels per acre between 1975 and 1978. His corn yields between those periods during non-disaster years averaged over 100 bushels per acre. He could not substantiate those yields because his records had been misplaced. The County Supervisor later advised him that if he could get a nondisturbance agreement signed by his creditors, he would make him a $19,600 Disaster loan. That amount is not enough money to operate his farm and it would only put him in financial trouble.

He appealed the County Committee's decision and a hearing was held. The County Committee's decision was upheld. He has since appealed to Washington, D.C.

He owns all of his real estate and no heirs are involved. His chattel equipment is free and he owns a $15,000 building in addition to his farm. Production Credit and the Federal Land Bank have liens on his total property.

The County Supervisor suggested again in 1979 that he should sell out and that he could pay his indebtedness and have a $100,000 left. He felt he was denied the amount of funds he requested because Whites want his farm.

The County Supervisor was never disrespectful to him.

Mr. Costen further stated orally that the County Supervisor spoke at the Assembly of Yates some years ago and that several questions were asked during the meeting concerning Rural Housing loans. He did not remember any other types of FmHA loans being discussed.

Mr. Costen's file contained an application dated September 28, 1978. There was no record of him applying for FmHA assistance prior to the above date.

The Farm and Home Plan in his file indicated that he owns 257 acres of land and a house which showed a total value of $220,000. His total property is valued at $344,900, and his total indebtedness is listed as $235,460.

A copy of the summary of Mr. Costen's appeal is attached as Exhibit 11.

The County Supervisor stated substantially as follows:

Mr. Cranston Costen applied for a loan to cover his entire indebtedness on September 28, 1979, in the amount of $163,600 on a long term basis. He also wanted a $15,000 Emergency loan to operate during the 1980 crop year.

The County Committee rejected the application because the indebtedness on his farm together with the amount of credit requested would result in a loan in excess of the normal earning capacity that could be expected from the farm. Mr. Costen appealed the Committee's decision and a hearing was held. The Committee's decision was upheld. Mr. Costen then appealed to Washington where his case is currently being reviewed.

Mr. Costen suffered production losses of $19,600 in 1978 and he may be eligible for a loan for that amount at 3% interest.

He has never advised Mr. Costen to sell out. Mr. Costen may have asked him how would he come out if he sold out and he advised him that it looked like he could sell out, pay all his indebtedness and may realize a substantial equity.

Legal Services Of The Coastal Plains

330 E. MAIN STREET
P. O. BOX 904
AHOSKIE, NORTH CAROLINA 27910
(919) 332-8124

JOHN W. GARLAND
CHIEF COUNSEL/CO-DIRECTOR

MITCHELL ROSS
ADMINISTRATOR/CO-DIRECTOR

February 8, 1980

Mr. James Frazier, Director
Office of Equal Opportunity
USDA
Washington, D.C. 20250

Dear Mr. Frazier:

Mr. Bill Pippins, Equal Opportunity Officer for the Farmers Home Administration suggested that I send this discrimination complaint letter directly to your attention.

Legal Services of the Coastal Plains (LSCP) has been contacted by a group of Black family farmers regarding what they believe is a pattern and practice of discrimination against them by the Hertford/Gates County Office of the FmHA. These farmers have asked LSCP to provide them assistance in filing a formal complaint with your office. Accordingly, please consider this a formal complaint of discrimination filed by LSCP on behalf of the following Black family farmers and all others similarly situated:

Mr. Cranston S. Costen
P.O. Box 993
Edenton, NC 27932
(919) 482-4703

Mr. Willie E. Matthews
Route 2, Box 22-A
Gatesville, NC 27938
(919) 357-1085

Mr. Charlie Gatling
Route 1, Box 51
Sunbury, NC 27979
(919) 465-8087

Mr. George Lee Norman
Route 1, Box 50
Sunbury, NC 27979
(919) 465-8775

The complaintants allege that the Hertford/Gates County Office of FmHA, particularly County Supervisor, Robert L. Daughtry, has discriminated against Black farmers in the following manner:

1. Since 1963, when Mr. Daughtry became County Supervisor, Black farmers have been given loans in amounts less than which they applied for and needed to operate their farms in an efficient and business-like manner. The complaintants allege that their loan applications are never approved for the amounts they seek, while White farmers are provided with loans for the full amounts requested. (Mr. Norman was forced to stop operating his model hog operation by selling his breeding stock because of this practice and as one condition for receipt of a loan).

2. The ability of Black farmers to obtain loans in the amounts they need to operate or live on results in Black farmers carrying a higher debt ratio than white farmers.

3. The Hertford/Gates County Supervisor does not authorize disbursements of loan checks directly to Black farmers. Instead, loan checks for Black farmers are either sent to a bank which acts as overseer of the funds and is required to sent a monthly statement of the accounts to the County Supervisor. In many instances, the County Supervisor makes no disbursements, but rather will require Black farmers to bring him a list of their bills or accounts and then he will make partial payments on those bills.

4. There is a pattern and practice of Black farmers being foreclosed, liquidated, or being forced to sell their property by the County Supervisor. Because of the practices set out above, Black farmers often find themselves with delinquent accounts. They are usually told by the County FmHA to sell their property and take a job. (Mr. Matthews states that the County Supervisor told him that if he sold

out he would find a job for him). These farmers are never informed of debt restructuring loans or other FmHA programs for persons who are delinquent or that some loans may be excused. Nor are they informed of the proper procedure that FmHA must go through in foreclosing on secured interests.

Black farmers are told that if they sell out the FmHA or the County Supervisor, personally, would give them money to build homes somewhere other than Gates or Hertford County. Moreover, when such a farmer does sell out, a purportedly public sale is held. All property sold is usually purchased by a selected group of white landowners or timber entrepreneurs in the two counties.

5. The complainants further allege that they are often denied the opportunity even to submit applications for loans. When they go to the County Office, they are told that they cannot repay the interest on a loan they want to apply for and are then told to leave the office.

6. Black farmers very often receive less than the total amount of the loans that are approved by the FmHA. Mr. Matthews has two promissory notes totalling $77,000. His bank statement indicates that FmHA deposited only $56,000 in the account.

7. Loan payment schedules are often accelerated without explanation. Mr. Matthews signed a promissory note for a seven-year disaster loan at 3% interest. After an initial disbursement was made he was called back into the County Office and signed what he thought was an authorization for the release of the balance of the loan. What he signed, in fact was a Form FHA 440-9 Supplementary Payment Agreement that was altered from a monthly payment schedule to a one-year repayment schedule. Alterations of loans and other applications are a frequent occurence among Black farmers.

There is also a problem with frequent misapplication of loan repayments to the wrong accounts. In one case (Mr. Matthews) a credit of over $32,000 was made to the seven-year disaster loan, as described above, while no credit was made on a one-year, 8% operating loan. In this instance, the entire proceeds from Mr. Matthews' crop was turned over to the County Supervisor at his direction. The County Supervisor then, and we believe intentionally, applied the proceeds in such a manner so as to make Mr. Matthews appear to be seriously delinquent. This action placed Mr. Matthews in a position to be denied a subsequent loan or refinancing of the 1979 operating loan together with a new 1980 operating loan at a higher rate of interest. Moreover, conditions attached to loans are often in direct contradiction of FmHA regulations and practices. Mr. Norman, for example, was to receive a loan on the condition that he agree to be liquidated, without recourse, if a "substantial payment" was not made by a particular date. Mr. Norman properly refused to agree.

8. Blacks and other persons who receive FmHA construction loans are forced to employ a particular contractor as a condition of disbursement of the loan. The complainants also assert, according to their knowledge and belief, that a Gates County official receives 1% of all loans approved.

9. Creditors and other businesses Black farmers trade with are routinely contacted by the County FmHA Office and informed that no loans would be made to the farmer in the future. This has the effect of preventing the farmers from obtaining credit and other goods and services needed to operate. Several of the complainants are now unable to obtain basic foodstuffs, oil for heating their homes, or supplies to prepare for the planting season. Their present plight is the direct result of the practices mentioned above; insufficient loans, partial payment of creditors, denial of loans, etc.

10. One further practice the complainants allege is done on a discriminatory basis is the failure to mark peanut cards either accurately or completely. This results in the farmer receiving less for his crop. This occurs when the County Supervisor assumes the responsibility for selling a crop and then fails to mark the correct number of bushels or pounds sold to the warehouse.

The practices set out above are but a few of the specific acts of discrimination Black farmers are exposed to. These complaints do not highlight the disrespect, embarrassment and humiliation these families must suffer at the hands of the Hertford/Gates FmHA Supervisor. The Supervisor acts as an overseer who is responsible for the day-to-day operations of Black farms. The complainants state that it is not unusual for the County Supervisor to come to their farms and tell them that since they are using his money they should be doing this or that and when he expects this or that to be done. When these men have a disaster year, they would tell the

Supervisor they cannot repay all the amount due because they have to feed their families. His standard response has been, "I don't give a damn about your families, I want my money."

While this complaint is directed specifically at the Hertford/Gates County FmHA Office, LSCP has had similar complaints from other counties in Northeastern North Carolina. Accordingly, the complainants respectfully request a thourough investigation by your office, Mr. Frazier, so that the problem of racial diacrimination can be quickly corrected. As stated earlier, several of the named complainants are presently unable to provide basic necessities for their families nor prepare for the planting season. Because of this situation, and that of others similarly situated, we ask that the complaint process be expedited. We also believe that the activities of the County Committee, its historic racial make up, and records of meetings should be evaluated. Finally, because of the present plight of the complainants and other Black farmers, we urge you to appoint an impartial FmHA official or team of officials to review their status and those similarly situated for the purpose of making emergency loans or grants to them.

Thank you in advance for your cooperation in this matter.

Respectfully submitted,

John W. Garland
Chief Counsel/Co-Director

JWG:fab

cc: Mr. Willie Riddick
Mr. Art Harmon
Mr. Bill Pippins
Mr. Marion Holland

Legal Services Of The Coastal Plains

826 E. MAIN STREET
P. O. BOX 864
AHOSKIE, NORTH CAROLINA 27910
(919) 332-5124

JOHN W. GARLAND
EXECUTIVE DIRECTOR

February 9, 1981

Mr. James Frazier, Director
Office of Equal Opportunity
U.S. Department of Agriculture
Washington, D.C. 20250

Re: Complaint of Discrimination
Filed by George L. Norman, et.al.
Date of Complaint: 2/8/80

Dear Mr. Frazier:

As you are aware, Legal Services of the Coastal Plains (LSCP) has been providing legal representation to a group of Black family farmers who have alleged discrimination by the Hertford/Gates County Office of the Farmers Home Administration. Since the filing of the complaint, one of the farmers, Mr. George Lee Norman, has deceased, and his family, particularly, Mrs. Mattie Norman and his son, George Lee Norman, Jr., have agreed to continue to act on behalf of his estate in pursuing the original complaint of discrimination.

The purpose of this letter is to file an additional charge against the same Hertford/Gates County Office of the FmHA for retaliation against Mrs. Mattie

Norman and George Lee Norman, Jr. because of the original discrimination complaint filed on February 8, 1980. Therefore, on behalf of the heirs of Mr. George Lee Norman, and on behalf of all other similarly situated, please accept this as a formal complaint of retaliation.

Specifically, subsequent to the filing of the original complaint, the subject FmHA official has retaliated against George Lee Norman and his heirs because of the original complaint of discrimination, in the following manner:

1. Failure to expeditiously process applications for loans and other FmHA assistance. Specifically, Mr. Norman filed an application for operating loans in approximately February of 1980, an appeal was made from initial decision denying him operating funds and the loan was eventually closed in June, 1980. Thus, Mr. Norman was unable to began planting at the appropriate time.

2. Subsequent to Mr. Norman's death in November, 1980, Mrs. Norman and her son, George Lee Norman, Jr. have been trying to continue working the family farm and have experienced acts of retaliation. On or about December 30, 1980, the Normans tried to obtain an application for operating loans from the subject FmHA official and were refused an application. They were also told that they should not expect the FmHA to help them because of the discrimination suit. They were also told on that date that they could file all the discrimination suits they wanted to, and that they needed to get a lawyer because Mr. Norman had filed a discrimination suit against him (FmHA) and therefore he could not work with them if they didn't trust him. He further advised them that they might need to get a lawyer because he might try to sue them because the original complaint made against him was not supported by any evidence. The refusal to give them applications occured on several occasions.

3. On lone occasion, when the Normans attempted to deliver their farm home plan for purposes of obtaining a loan, the subject official advised them that he could not do anything because their files were not in his office and had been out of his office for approximately five (5) weeks. Thus, they are being prevented from filing an application on a timely basis in order to start farming during the appropriate planting season. This kind of delay tactic is very similar to what happened to Mr. Norman in 1980 when his loan from FmHA was eventually made in June, 1980.

4. One time, when an application for a farm home plan was finally given to Mr. George Lee Norman, Jr. by the subject official, he was asked if he wanted a Black man to help him fill out the application due to the complaint of discrimination that was filed against him.

5. On almost every occasion, except one, when a payment was made, the official refers to the complaint of discrimination filed by Mr. George Lee Norman.

6. The subject official has engaged in intimidation, harrassment and generally has tried to discourage the Normans from working with the Farmers Home Administration.

I would request that your office expedite your investigation of this claim of retaliation in light of the fact that the Normans ability to continue as a family farm is being compromised by the actions of the subject official. Your most prompt attention to this would be greatly appreciated.

Very truly yours,

John W. Garland
Executive Director

JWG/fab

cc: Dana Froe
Mrs. Mattie Norman

[The following letter is in response to Mr. Sommer's testimony and was subsequently received for the record.]

Federal National Mortgage Association FNMA

3900 Wisconsin Avenue, NW, Washington, DC 20016
202 537 6710

Robert J. Mylod
President and
Chief Operating Officer

April 1, 1983

The Honorable Robert Dole
Chairman, Subcommittee on Courts
Senate Judiciary Committee
Washington, DC 20510

Dear Senator Dole:

On March 14, 1983, Mr. Henry J. Sommer, a Staff attorney of the Community Legal Services, Inc., of Philadelphia, presented testimony to your Subcommittee on Courts on behalf of the Philadelphia Unemployment Project. In his testimony, on page 6, Mr. Sommer implied that the Federal National Mortgage Association (FNMA) has policies to discourage mortgage servicers from accepting any partial payments or reasonable payment arrangements. I am writing this letter to state that Mr. Sommer has completely misrepresented FNMA's policies with respect to partial payments. I respectfully request that my letter be included in the hearing record to assure that Members of Congress and others who read the printed record will not be misled.

At pp. 5 - 6 of his testimony, Mr. Sommer stated the following:

> "In our experience, mortgage companies almost uniformly refuse to accept reduced monthly payments or partial payments on arrearages from homeowners in economic difficulty. Time after time, I have heard the same absurd tale of banks refusing to accept money -- of returning payments because they were less than

> the amount due. One individual, who came to PUP and who had lived in his home for 13 years, fell 2 months behind in his mortgage payments because he was hospitalized with a lung disease after working 23 years in a factory. When he attempted to resume his payments, his money was refused. This experience is the rule and not the exception.
>
> The banks' refusal to accept partial payments and to enter reasonable payment arrangements is demoralizing to homeowners who are already burdened with a host of problems associated with unemployment. The banks' policy makes it all but impossible for homeowners to save their homes, even if they later find work, because it leads to the commencement of foreclosure proceedings and the addition of hundreds of dollars of legal expenses to the arrearage. Indeed, one of the worst offenders in this regard is the quasi-governmental Federal National Mortgage Association (FNMA). If the policies of FNMA and others would be changed with regard to partial payments, a giant step would be made in addressing the foreclosure crisis without the expenditure of a single dollar by the federal government." (Emphasis added.)

Before making his statement, Mr. Sommer should have consulted the FNMA Servicing Guide, which is published to keep mortgage servicers informed of FNMA policies and procedural requirements. In the Servicing Guide, FNMA recommends to servicers ways to prevent or cure delinquencies and defines special relief and forebearance provisions directly relevant to the case of homeowners who are unable to make their mortgage payments for reasons of temporary unemployment. Section 402.02 of the Servicing Guide, "Accepting Partial Payments," defines the circumstances under which FNMA recommends that servicers accept partial payments from mortgagors. As a rule, FNMA intends that the servicer should accept partial payments if this will help cure a mortgage delinquency. In addition, HUD and VA require that partial payments on loans insured or guaranteed by them be accepted under certain conditions that they specify. If a mortgagor indicates that he or she will not be able to resume full payments within a reasonable period of time, the servicer should determine whether some sort of relief provision could be used

to bring the account current or at least keep the delinquency from getting worse.

FNMA included these provisions in the Servicing Guide in an effort to strike a responsible balance between the interest of homeowners in temporary difficulty and of lenders. This policy attempts to distinguish between homeowners in genuine temporary hardship from those who are delinquent because of circumstances they could and should have controlled.

The FNMA mortgage servicer must decide which mortgagors are qualified and must set the terms of forebearance on a case-by-case basis. We impose this condition for the simple reason that the cost of forebearance on our part could become impossibly expensive if we were to allow for a large scale non-payment of mortgage obligations by those not in genuine hardship.

I trust this information will help clarify the record. If I or my staff can be of additional assistance, please do not hesitate to contact me.

Sincerely,

RJM/cfb

Attachment.

LENDERS' AND GOVERNMENT AGENCIES' CONTRIBUTION TO THE PROBLEM

Most of the bankruptcy problems I have discussed would never occur if mortgage companies and government agencies took a more reasonable approach to the problems of homeowners facing foreclosures. In fact, the primary relief now available in chapter 13 would not even be necessary if banks simply allowed mortgagors to catch up in their payments over a reasonable period of time. But the steadfast refusal of lenders to work out any arrangements for homeowners to bring their payments up to date gradually puts homeowners in a situation where they may have no alternative to chapter 13, under which it takes much longer to catch up, because of bankruptcy attorney's fees, trustee's fees, filing fees and other costs.

In our experience, mortgage companies almost uniformly refuse to accept reduced monthly payments or partial payments on arrearages from homeowners in economic difficulty. Time after time, I have heard the same absurd tale of banks refusing to accept money--of returning payments because they were less than the amount due. One individual, who came to PUP and who had lived in his home for 13 years, fell 2 months behind in his mortgage because he was hospitalized with a lung disease after working 23 years in a factory. When he attempted to resume his payments, his money was refused. This experience is the rule and not the exception.

The banks' refusal to accept partial payments and to enter reasonable payment arrangements is demoralizing to homeowners who are already burdened with the host of problems associated with unemployment. The banks' policy makes it all but impossible for homeowners to save their homes, even if they later find work, because it leads to the commencement of foreclosure proceedings and the addition of hundreds of dollars of legal expenses to the arrearage. Indeed, one of the worst offenders in this regard is the quasi-governmental Federal National Mortgage Association (FNMA). If the policies of FNMA and others would be changed with regard to partial payments, a giant step would be

made in addressing the foreclosure crisis without the expenditure of a single dollar by the federal government.

These same policies are the prime causes of the atmosphere of panic among homeowners that allows the unscrupulous bankruptcy clinics to flourish. Many of the homeowners we have seen went to these clinics when they were only two or three payments behind because they saw no alternative once the bank refused to take less than every penny that was due. While there should have been many better ways of reasonably resolving the problem at that point, by the time their chapter 13 cases had failed their situations were far worse, sometimes hopeless. Thus the banks' unreasonable servicing of mortgages contributes directly to this bankruptcy problem.

Senator DOLE. Our next panel will be Frank Naylor, the Under Secretary for Small Community and Rural Development; Terry Fredrickson, the Senior Deputy Governor, Farm Credit Administration; and Jamie Jackson, Board member of the Federal Home Loan Bank Board.

I hope in the interest of time, because I do have to leave here in about 20 minutes, that we might have your statements made a part of the record. You have heard a number of suggestions and criticisms. We would appreciate if you could focus on these comments to and indicate what may be happening in your respective agencies, to address some of the real concerns raised by previous witnesses, and by a number of Members of Congress.

Mr. Naylor, let me start with you.

STATEMENTS OF FRANK W. NAYLOR, JR., UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, D.C.; CARL T. (TERRY) FREDRICKSON, SENIOR DEPUTY GOVERNOR, FARM CREDIT ADMINISTRATION, WASHINGTON, D.C.; AND JAMIE J. JACKSON, BOARD MEMBER, FEDERAL HOME LOAN BANK BOARD, WASHINGTON, D.C.

Mr. NAYLOR. Thank you, Mr. Chairman.

I know time is short, and I will attempt to concentrate initially on agriculture, since that has been the principal thrust of questions today.

I think, very quickly, in reviewing the current economic situation from a financial lending viewpoint, we have to look very quickly at the last decade, beginning 1970, and through the 1980 period. During this time total farm debt rose from $54 billion to about $215 billion. That is a very significant increase, and much of it was driven by very generous lending policies in the commercial lending sector which relied very heavily on the runup of inflation, and the runup of real estate values, in making loans, which frequently were not adequately checked with regard to cash flow, or feasibility.

About 1977–78, there began to be a tightening of policies, but at that same point in time, the Federal Government stepped in, with what was known as an economic emergency program, which had very loose credit standards with regard to the repayment ability and collateralization of loans. The Government stepped in and increased very substantially the amount of credit activity in the agricultural sector.

That resulted, among other things, in a show on "60 Minutes," on the CBS network, at which time Congress tightened up some of the standards, but we saw another runup, in about 1980, and then that has fallen off as the program level has come down.

I think it is important to note, however, that during the last couple of years there has been a significant shift in lending activity between the private sector and Government.

As recently as 2 years ago, the short-term lending, which is really the subject of most of the questions here today, amounted to 3 percent of the total market share which was held by the U.S. De-

partment of Agriculture, and that was Farmers Home and CCC lending.

In the last few years, that has gone from 3 percent of the market share to 27 percent of the market share, and is at an all-time record in this current year of USDA assistance and support in the short-term lending market.

The principal concern expressed here today was the question of foreclosures and problem loans, which face the entire financial industry, with regard to agriculture and housing. The picture is certainly serious in some areas, but not nearly as much as has been painted by the media in many recent presentations.

In the commercial sector, about 3.9 percent of all farm agricultural loans are delinquent as of the end of 1983. In the Farm Credit System, 2½ to 3 percent are delinquent. In the Farmers Home Administration, about 24 percent are behind in their payments, and I use that differentiation of terms because our term, or definition of delinquency, is much tighter—$10 or 15 days—than many of the commercial lenders use for their standards.

What is the degree of the real problem situation out there? Well, in fact, the Farm Credit Administration, in the last year, had foreclosure action completed on about 1,300 of its million borrowers.

In the case of Farmers Home Administration, 844 foreclosures were completed in the last year on its borrowers, 270,000, which were credit of last resource cases. There were, in fact, an additional—about 6,000 cases of voluntary or involuntary liquidation by producers, or about 7,000 of our 270,000 borrowers left farming in the last year. There was no comparable statistics in the Farm Credit System, or in the commercial system.

Mr. Chairman, I think the more important concern, though, is whether or not the Farmers Home Administration is effectively using the discretionary authority given to the Secretary to defer, or assist, or provide special assistance to producers that are in difficulty.

I think the overwhelming answer to that has to be yes, indeed, they have. In 1982, the Farmers Home Administration, 42,000 times, out of its 270,000 borrowers, deferred, extended, subordinated, or took some special actions to help producers stay in business, when we felt they had any opportunity whatsoever of success.

We expect that situation to continue into the coming year, and we expect to continue to extend the compassion and understanding and assistance that is necessary to help those farmers that are in genuine difficulty, but having really some opportunity of success in continuing in operation.

There is no way to accurately define how many producers out of the 2.4 million farmers in this country are in real financial stress. The best estimates that we can come up with indicate that about half of the American farmers are self-financing, which is a surprise to many people in the public today.

Of the 1.2 million that do borrow money, we estimate that somewhere between 50,000 and 100,000 are in genuine financial difficulty, and for these farmers the problems are very real. But the truth is that we will be able to help almost all, and that virtually all of these producers will in the end succeed, if they will adhere to good

management practices, and aggressively work at making their farming business a success.

We intend to continue to make the assistance, and the special consideration that we have given in the past, available to these producers. There is no shortage of funds available, either in the commercial sector of the Farm Credit System, or at this time in the Farmers Home Administration, nor was there last year, when we actually ended up turning back some money that we did not need to use in the process, loan demand during the process, at the end of the year.

There have been a number of questions about employment levels, and staffing within the Farmers Home Administration, and certainly this has been a long time problem. While the total departmental personnel ceilings will have gone down well over 10,000 by the end of this year, the Farmers Home Administration has just been granted an additional 500 new employees to help in our field locations.

In addition, we have made a number of program proposals, which, if implemented, will allow our staff to concentrate a much greater deal of their time on loan supervision in the farm lending area. This involves cutbacks in the commercial lending area, and a revised program in the New Federalism proposal for our housing program, which would direct more of those funds to the States, to the block grant proposal.

On balance, we have the funds, we have the necessary authority. A moratorium or deferment language, we feel, would be counterproductive and harmful to the overall agricultural credit picture, and the ability and fairness of other farmers in the farming business.

The administration will continue to strongly oppose any proposals of that nature. We do have additional new employees, we do have the opportunity to make better utilization of our staff. We are not without fault. We are not without worry, and there are areas where we need strong efforts for improvement, and intend to do so, but we believe that we are responding to the needs and problems that are being experienced in the agricultural credit today.

Thank you.

Senator DOLE. Mr. Fredrickson?

Mr. FREDRICKSON. Mr. Chairman, I am C. T. Fredrickson, Senior Deputy Governor for the Farm Administration. I shall attempt to be very brief.

We have sent the extensive statement, which I would like filed for the record.

The continued financial stress in the agricultural sector has forced the Farm Credit System to make some difficult decisions.

These decisions are between continued forebearance and initiating actions that may lead ultimately to foreclosure. It is fortunate that the management ability and financial condition of of the vast majority of the System's borrowers are such that these decisions must be made in only a very small number of cases, especially when compared to the total number of borrowers.

Our System's policy is to continue working with distressed borrowers as long as they have any reasonable chance at all of recovery. It must be recognized, however, that there are situations

where no reasonable prospect for recovery exists, where continuation of credit will simply increase losses to the farmer and to the lending institutions. Where there is no reasonable prospect of profitable operations using borrowed funds, all are best served if the borrower liquidates the operation, pays off his loan, and withdraws his remaining equity.

That the Farm Credit System adheres to its forebearance policy is reflected in the fact that renewals and refinancings have increased as a percentage of loan activity. In 1982, PCA renewals accounted for an average of 33 percent of the monthly volume of loans made, compared to 30.2 percent in 1981. And that has been going up steadily in the last 4 years.

Federal Land Bank refinancing of nonreal estate debt has reclaimed a larger share, rising to 16.7 percent of loans made during the first 9 months of 1982, compared to 13.3 percent in the first 9 months of 1981.

In a few cases, foreclosure action is initiated. A total of 1,370 FLB loan accounts were in some stage of foreclosure at the end of 1982, compared with 719 a year earlier. There were 1,072 PCA accounts in some stage of foreclosure as of December 31, 1982, with 11 of 12 districts reporting. Not all foreclosure actions resulted in actions, of course.

In calendar year 1982, FLB's, with 667,912 loans outstanding, took actions resulting in 385 foreclosure auctions nationwide. This figure compares to 150 FLB foreclosure auctions in 1981. PCA's, with 382,819 members with loans outstanding, took actions that resulted in 870 farm foreclosure auctions nationwide in 1982. We have no data for PCA's in 1981, though we know this year's activity was higher.

A single foreclosure is one tragedy too many, of course, but we are frankly relieved that the total is not much higher. Even under continued bad economic conditions, less than 12 hundreds of 1 percent of the more than 1 million Farm Credit System loans outstanding were foreclosed through auction sales.

Concern over these farm foreclosures have led to calls for various actions, including a blanket moratorium on such actions. While the concern is certainly understandable, and the theory of a moratorium is attractive, such measures have the potential for doing great, if unintended harm.

We believe the result would be higher interest rates, less available credit, and fewer institutions willing to lend to farmers, and all farmers would bear these ultimate costs.

Mr. Chairman, we commend you for your leadership in calling these hearing. We think that the solution to the problem that is faced by agriculture is not, in the main, more credit, or easier credit. We think, as other witnesses have said, that the answer lies in better agricultural income, and your efforts, particularly with regard to expanding export markets, are, as we see it, the best hope for this project.

The Farm Credit System does not at the present time have any particular difficulties with the Federal bankruptcy statute to report to you, and we have no recommendations in that regard.

Thank you very much.

Senator DOLE. Thank you very much.

Mr. Jackson?

Mr. JACKSON. Thank you, Mr. Chairman.

I am Jamie Jackson, a member of the Federal Home Loan Bank Board, which is the chief regulatory body of the savings and loan industry, which of course is the chief lender for home mortgages.

We have submitted a statement for the record, and in consideration of your time, I will quickly summarize.

I'd like to give you a little bit of statistics, concerning the delinquency and foreclosures rates in the savings and loan industry. Right now, these ratios are the highest they've been since the sixties. In January of this year, roughly 2.25 percent of our loans were delinquent, as opposed to the 0.83-percent ratio in August 1979. And foreclosures by FSLIC insured institutions were running approximately 0.27 percent, or one-quarter of 1 percent in the first half of 1982, on an annualized basis, as opposed to 0.11 percent in the first half of 1979.

But even though the Board, like you, is very concerned with this, we feel that Federal intervention at this time could be counterproductive for a number of reasons.

First of all, we are very positive that the economy's improving, and in our area the most important sign in the economy is the fact that home mortgage rates have dropped from 17 percent to 12 percent. So we believe that housing is certainly going to be a major force in bringing the economy back.

Second, we would point to the fact that during this recent time period many people bought houses at a high price, in a high interest rate environment, and then because of financial difficulty found that their equity was such that they could not sell their home at a positive spread.

With the economy improving, we think that more and more people will be able to sell their homes, and walk away with a profit, or break even, as opposed to going to the foreclosure procedure.

Third, we would like to make the point that statistics can be somewhat misleading. Even though people could be making partial payment on their loans, our methods for reporting delinquencies would still show those loans as delinquent.

Fourth, probably the most compelling reason why we feel we do not need a moratorium at this time is lenders are working on an individual basis with their borrowers. As a former savings and loan executive for 10 years, I can assure you that the savings and loan industry is not interested in being in the real estate industry, and associations work very closely with customers, to try to work out their individual financial assistance.

And then finally, we are very concerned about the effect a moratorium would have on the mortgage credit market. As you are well aware, housing is the sector that is being looked at to lead us out of a weak economic situation, and more and more the funds for housing are coming from the secondary market, where other people are actually putting up the money and buying the loans from savings and loans and other lenders.

We are very concerned that a moratorium would unfavorably affect the national credit market, as well as the individual savings

and loans, who need that repayment on the monthly basis, to be able to loan back out, so that people can buy homes.

We do, however, commend this subcommittee for looking at this issue, and we personally feel that if we are going to work on solving this problem, we would be better off solving it directly with the homeowners, rather than going through the lender by imposing some type of moratorium on foreclosure.

We have submitted a full statement as to our position, and I would be pleased to answer any questions that you would have concerning our position.

Thank you.

Senator DOLE. Well, I concur with every statement made, in a general sense, and I tend to agree that we should not start at the Federal level trying to impact what either the private or public sector may do as far as lending policies.

Mr. Naylor, do you think the Federal Government's policy should be a little more generous or more lenient than the lenders in the private sector? Are you able to adjust your policies to meet almost every case? In your testimony you indicated that you were able to do so. However, we also heard testimony from, other witnesses who charged that the Farmers Home Administration has not been very effective in administering its programs. In addition, the two witnesses from North Carolina have alleged that those who run your agency have a plantation mentality. They cited the sharp decline in the number of black farms.

Can you address those specific concerns, if not now, at least maybe furnish information for the record, so that we might be able to pass it on to those witnesses?

Mr. NAYLOR. Senator, I would be happy to supply a response for the record, in light of the time, perhaps that would be the best way to deal with it.

[The following was subsequently supplied for the record:]

The Farmers Home Administration has taken a number of steps to ensure that its programs and services are available to all eligible persons, regardless of race or color.

FmHA requires its Equal Opportunity staff to review all loan program regulations for civil rights implications. Comments and suggestions of the Equal Opportunity staff regarding proposed loan program regulations are always incorporated in final regulations—a practice that helps ensure that minorities receive a fair share of limited resource loans.

Since September 1981, training in the Equal Credit Opportunity Act has been an integral part of FmHA's civil rights training course. The training course is mandatory for all field staff who conduct civil rights compliance reviews. In fiscal year 1982, 125 members of the FmHA field staff received this training.

Another measure of continuing emphasis on civil rights priorities is the reversal of a declining trend in Black membership on FmHA county committees. The number of Black committee members declined from 428 in 1979 to 253 in 1980. This number had climbed to 379 at the end of fiscal 1982, and the increase is expected to continue.

FmHA is implementing a program in response to President Reagan's Executive Order 12320 to assist historically Black colleges and universities. This program has a promising potential to help reverse the decline in the number of Black farmers.

One objective of the program is to establish a training program at a Black land-grant college or university using faculty and students to assist FmHA borrowers in modern farming financial and business methods. Another objective is to employ, during summer months, faculty members from these institutions to acquaint them with FmHA programs and policies and to acquaint them with potential employment opportunities for their students.

Mr. NAYLOR. I would simply say that we have looked very closely at the reports that were mentioned earlier. We believe the record is much better than that report indicates. We are making stringent efforts to assist and provide support for our minority producers, and I think we are making good progress in terms of total activity that we are involved in.

But I think we need to address, in a broader sense, and would appreciate doing so for the record, as it might be appropriate also for us to do in the housing area.

I too would like to add my appreciation for your support in holding these hearings, and also your support in a number of programs that I think bear on the basic solution that we have to deal with, and that is improved commodity prices, improving our supply situation, and certainly expansion of our export markets which are crucial to the overall success.

In the interim, I continue to be convinced that we can and will handle our job.

In specific answer to your other question, we do have more liberal standards, we are continuing to apply them. I think we should continue to apply them. It is my understanding, Senator, and we will provide it to you, that our inspector general will shortly be issuing a report which says that we have been too liberal, even beyond our own guidelines, and that we have gone too far in extending loans that perhaps we should not have made.

If I had a choice, I would prefer to err on that side, because I believe there is an excellent opportunity for most of those producers who are under financial stress, can ultimately be brought through this period. If there is a way to do it, we intend to try.

Senator DOLE. That is a very fine balance. As Jerry indicated, if you continue to extend credit, you may eat up all the equity that a landowner and producer may have. It is a delicate decision that must be made from time to time.

I have had farmers from my State of Kansas tell me that the last thing they wanted is more credit. Sometimes the liberal extension of credit contributes to the problem. They would like to see Congress spending that time and money to explore ways to expand the export markets and to elevate market prices, as one Montana witness suggested.

I would like to thank the witnesses; I appreciate having your testimony. While I think we have made a good record, we are not finished in this area. We will have additional staff followups, and if necessary, additional hearings.

There are some areas of concern that should be the focus of congressional attention. The plight of the black farmers is one example. It would be a tragedy if all the black farmers disappear from the land in North Carolina, Mississippi, or any other State.

Urban areas are not exempt from the problem. As evidenced in the Philadelphia area, the rate of home foreclosures has increased dramatically and one of our witnesses has stated that this could be due in part to the lack of protection in the bankruptcy code. I have not read your entire statement, Mr. Jackson, and maybe you touched on that particular issue, but that is an area that we will be addressing.

We appreciate everyone's testimony. I am sorry to rush off, but Senator Baker is looking for me.

I would like to extend my thanks to all of the witnesses who participated today. I would appreciate any information the agencies can provide for inclusion in the record. At this time, I would like to make a personal request. Would the appropriate officials check on Reverend Shearin's father-in-law? He has been farming for 40 years, and it seems to be unfortunate if he cannot continue with his livelihood. I realize this is a specific case, but if you would look into that, I would appreciate it.

Mr. NAYLOR. We will be pleased to do that.

Senator DOLE. Thank you.

[The following information was subsequently supplied by Mr. Naylor.]

Rev. Shearin referred in his testimony to his father-in-law, the late Claude Cotten of Jackson, Northampton County, North Carolina. Claude Cotten, who died on March 10, 1983 (four days prior to Rev. Shearin's appearance before the Committee), was a row crop farmer operating on rented land. At the time of his death he was not an FmHA borrower or applicant, and had not been an FmHA borrower for a number of years. He had not held a conversation with Marvin E. Coleman, the FmHA County Supervisor at Jackson, for approximately 2 years.

On March 3, 1983, Rev. Shearin and James Cotten (son of Claude Cotten) had visited the FmHA office at Jackson and discussed with Mr. Coleman the possibility of James Cotten's obtaining an FmHA loan to pay off his father's farm debts and take over the Claude Cotten farming operation. They proposed to add a hog production enterprise to the farming operation. In the discussion on March 3, Mr. Coleman raised questions as to the timeliness of entering and expanding a farming operation in light of current economic conditions, and whether James Cotten was sufficiently experienced in farming to undertake the operation he proposed. His previous employment was in a line other than farming. However, Mr. Coleman agreed to further discussion of the younger Mr. Cotten's proposal. At the time of Rev. Shearin's testimony (March 14), James Cotten was scheduled for an appointment with Mr. Coleman on March 18 to discuss a formal loan application to FmHA.

James Cotten, accompanied by Rev. Shearin, kept the March 18 appointment with Mr. Coleman at the FmHA office in Jackson. They related to Mr. Coleman that owners of two tracts of land Mr. Claude Cotten had farmed were asking for annual rent payment in advance. Mr. Coleman pointed out that if James Cotten took out a loan to make such advance payment, interest on the loan would be added to cost of rent and increase overhead of the projected farming operation. Mr. Cotten was provided with loan application forms to make out and file with FmHA if he decided to pursue his plan and apply for an FmHA loan.

No application has been received. Mr. Coleman was informed later by Rev. Shearin that James Cotten had decided not to proceed on the landowners' terms and did not intend to apply for the FmHA loan.

[Prepared statements submitted by Messrs. Fredrickson and Jackson follow:]

Statement of Carl T. Fredrickson
Senior Deputy Governor
Farm Credit Administration

Mr. Chairman, my name is Carl T. Fredrickson. I am Senior Deputy Governor of the Farm Credit Administration, the independent Federal agency that regulates, supervises, and examines the cooperatively owned Farm Credit System. We at FCA appreciate the opportunity to appear before this Subcommittee and to offer our perspective on the agricultural credit situation. But before discussing current farm conditions -- which clearly reflect the worst financial pressure since the 1930s -- let me first provide you with some background material on the Farm Credit System and the Farm Credit Administration.

Farm Credit System

The cooperative Farm Credit System consists of federally chartered instrumentalities that operate under authorities contained in the Farm Credit Act of 1971 (P.L. 92-181) and other statutes, most notably the Farm Credit Act Amendments of 1980 (P.L. 96-592). The Farm Credit System provides credit and closely related services to farmers, ranchers, producers and harvesters of aquatic products, agricultural and aquatic cooperatives, rural homeowners, and certain businesses that provide farmers and ranchers with services essential to their on-farm operating needs.

While the U.S. Government provided the initial funding for the various institutions of the Farm Credit System, this "seed capital" has since been repaid. The Farm Credit System is now entirely borrower-owned and -controlled. Even the costs of the

Farm Credit Administration (FCA), the independent Federal agency that examines and supervises this System, are assessed upon the banks it supervises; therefore, it is the System's borrowers and not the taxpayers who pay the expenses of the Farm Credit Administration.

The Farm Credit System, which is the largest single supplier of credit for American agriculture, obtains its loan funds primarily through the sale of securities in the national and international money markets. These securities are not guaranteed by the U.S. Government. They are sold through the System's Fiscal Agent in New York City.

The three agricultural credit systems that comprise the Farm Credit System are described below.

The 12 Federal land banks (FLBs) make loans ranging from 5 to 40 years through local Federal land bank associations (FLBAs). These loans must be secured by first liens on farm or rural real estate or their equivalency. Loans may be made for a variety of purposes, including the purchase of farms, farmland, and farm improvements; rural homes and real estate needed for farm-related businesses; the purchase of equipment, machinery, and livestock; refinancing existing mortgages and paying their debts; and financing other needs of the borrower.

The Federal intermediate credit banks (FICBs) provide loan funds to local production credit associations (PCAs) and discount the notes of eligible borrowers given to other financing institutions. The FICBs may also participate with production credit associations, commercial banks, and one another in making loans.

PCAs make loans with terms up to 10 years to farmers,

ranchers, rural homeowners, and certain farm-related businesses. They also make loans with terms up to 15 years to producers and harvesters of aquatic products. Loans are made for a variety of purposes related to the production of agricultural products, the production and harvesting of aquatic products, the purchase, repair, or maintenance of rural homes, and other requirements of the borrowers.

The bank for cooperatives (BCs) serve agricultural, aquatic and rural electric cooperatives whose headquarters are within their respective districts. The BCs provide cooperatives with a complete credit service designed to fulfill their specialized needs. The banks for cooperatives make term loans for purposes such as constructing, remodeling, or expanding facilities, or for purchasing land, buildings, or equipment. Seasonal loans are made to finance current or seasonal assets.

The Central Bank for Cooperatives participates with the district banks in loans that exceed their individual lending limits. The BCs may also participate with one another and with other financing institutions in making loans.

The Federal Farm Credit Board is the top policymaking body for the Farm Credit Administration and the cooperative Farm Credit System. Members of the Federal Farm Credit Board, as those of all other boards in the System, serve on a part-time basis. Twelve members of the Board, one from each Farm Credit district, are appointed by the President of the United States with the advice and consent of the U.S. Senate. They serve 6-year terms and are not eligible for reappointment. A 13th member of the Board is appointed by and serves at the pleasure of the Secretary of Agriculture.

The Governor is the Farm Credit Administration's chief executive officer. He is appointed by and serves at the pleasure of the Federal Farm Credit Board. He is ultimately responsible for carrying out the policies of the Board by ensuring that the Farm Credit Administration supervises, examines, and regulates the Farm Credit System in the public interest. At the same time, each institution of the System is a user-owned and-controlled cooperative association. A great deal of responsibility for directing and managing Farm Credit institutions is vested in member-elected boards of directors and their selected management. FCA supervision is designed to oversee the actions of the district boards to ensure sound management of the banks and associations. Operating decisions are decentralized within the System to the user level, as long as System objectives are respected and sound business is conducted.

GENERAL AGRICULTURAL CONDITIONS

Without any question, these are extraordinarily hard times for American agriculture. To make matters worse, a fourth consecutive year of serious difficulty looms on the horizon. Neither domestic nor foreign demand prospects figure as likely candidates to work down burdensome grain stocks in the current marketing year. The anticipated recovery in the U.S. general economy will take time to translate into a stronger demand for food and fiber. More pertinent to the cash grain sector would be improved economic conditions within the major grain importing nations or some shift downward in the value of the dollar relative

to their currencies. Measures now being developed to further reduce 1983 crop acreages should be helpful in avoiding a further buildup of stocks at the end of 1983. However, barring an unlikely confluence of several favorable events, the 1983 farm programs will do no more than stabilize prices.

On the surface, conditions in the farm sector appear similar to a year ago -- large supplies confronted by weak demand, with livestock producers facing a better price/cost outlook than crop producers. Unlike last year, the prospect for a quick reversal is much more distant, particularly in the case of cash grain and cotton producers.

Back-to-back recordbreaking U.S. crops have given rise to a situation that would normally signal livestock expansion. Despite such a signal, however, livestock producers have been cautious in making production decisions. Our meat and poultry output, led by hefty reductions in pork, has been reduced generally in line with a weakened domestic demand. Relatively low feed costs generated favorable margins during 1982, and margins are expected to be slightly higher during 1983.

Farm Income and Expenses

The cash flow problems that farmers have been facing are expected to continue in 1983. Overall cash receipts from farm marketings have been fairly stable during the past 3 years, while growth in production expenses has only begun to slow noticeably during the past year. In 1982, cash receipts from farming are expected to be only slightly lower than 1981, while expenses are estimated to be slightly higher.

Despite recent declines in rates, interest expenses were again one of the leading factors pushing total farm expenses up in 1982. The U.S. Department of Agriculture (USDA) estimates that interest charges exceeded $22 billion -- about 15 percent of total farm production expenses and nearly double the share they took 10 years ago.

Neutralizing the anticipated small decline in cash marketing receipts and rise in cash operating expenses was a $2 billion plus jump (a doubling) in direct Government payments, which could maintain the 1982 net cash farm income near the $31.5 billion obtained in 1981.

Outlook for 1983

This slowing in farmers' growth of expenses will most likely continue in 1983, due to both the reduction in general inflation and a cutback by farmers in their operations. The cutback would follow from greater participation in the acreage reduction programs and farmers' continued attempts to stretch the use of production inputs. Lower interest rates are also providing significant relief to farmers who rely heavily on credit. However, these same conditions suggest reduced volume and continued pressure on margins for farmer cooperatives and other agribusinesses.

Cash receipts from crops are expected to remain below the 1981 peak and, in real terms, stay at the low levels of recent years. Acreage reduction programs are likely to decrease production, but total sales of farm products could hold steady as over-supplies are worked out over the next 2 years. Livestock prices may increase slightly, with overall meat production holding

near the reduced 1982 levels. This should cause livestock cash receipts to gain somewhat over 1982. If this is the case, total cash receipts may be level with 1982. Government payments to individual farmers will remain near the 1982 levels, assuming the availability of advanced payments once again in 1983 and no major modification of crop programs. Other cash income may increase slightly in view of an expected weak economic recovery. Therefore, gross income should be about the same as or possibly a little higher than the 1982 levels, depending on the degree of improvement in global economic conditions.

Total production expenses should continue moderating their upward trend and could even dip slightly due to reduced acreages and the cash flow pressures to minimize input usage; thus net cash income may be slightly higher than that posted for 1982.

U.S. Agricultural Exports

For the first time in over a decade, U.S. agricultural exports did not set a record high in fiscal year (FY) 1982, either in terms of volume or dollars. The dollar value of FY 1982 exports fell to $39.1 billion from $43.8 billion during the previous fiscal year, the first such decline in 12 years. FY 1982 was the fourth consecutive year of relatively flat export volume, with volume 3 percent below that of FY 1981.

For 1983, lower farm prices means we could see a significant drop in the value of farm exports for the second straight year. With our agricultural imports holding steady, we are also likely to see a second sizable drop in the U.S. agricultural trade surplus. The surplus reached $26.6 billion in FY 1981, but slid

to $23.7 billion last year, and could well drop several more billion dollars in FY 1983.

A major factor contributing to our rapid growth in agricultural exports during the 1970s was the expansion of worldwide credit. This expansion has run its course, as the list of countries having extraordinary credit problems includes some of our important farm markets. While there is general confidence that the international financial system will be able to absorb the needed debt restructuring, the difficulties will not quickly disappear. We will most likely see a further slowing in the growth rate of world trade and U.S. agricultural exports, in particular, as the current difficulties will continue to constrain the ability of many nations to satisfy their food import needs. The strong dollar has added to the importing nations' problems because our goods have become more expensive in international markets despite lower domestic farm prices.

If, as seems likely, the United States recovers faster than the rest of the world from its recession, this could, at some point in 1983, start to bring the dollar down to more normal levels. In time, such a shift in exchange rates should encourage exports.

Farm Assets

On January 1, 1983, the dollar value of farm sector assets was estimated at $1,070.0 billion -- $21.8 billion or 2 percent lower than the (preliminary) January 1, 1982, dollar value. Because the general price level for the same period was estimated to have increased by around 7 percent, the real value of farm

assets has declined by about $46.3 billion or 8.3 percent. The major factor in this decline was a 5-percent drop in nominal land values (or a 10.5-percent decline in real values), coming in the wake of continuing low farm income.

The depressed earnings in the farm sector have begun to take a serious toll on the balance sheets of farmers. The increase in land values during the 1970s outstripped earnings in shaping the equity growth of farm investors and, to a large extent, in justifying their debt expansion.

Actual earnings, through sound production management, played a backstage role and this, undoubtedly, encouraged some financial decisions that would not have been made in hindsight.

Estimates of the rest of January 1, 1983, farm asset levels underscore some of the concerns that have developed over the past 2 years. Financial assets have increased at a 2- to 3-percent pace since 1975, and probably continued to do so in 1982. Although livestock numbers were cut back in 1982, increases in prices more than offset the decline, causing the value of livestock inventories to rise. The opposite is true for crop inventories; another record output in 1982 resulted in huge crop inventories. The total value of these inventories is up even though crop prices are down. The depressed farm situation held the purchase of household equipment and furnishings and farm equipment to a minimum last year.

Farm Debt and Equity

The picture on the "claims" side is discouraging. Led by the decline in land values, the farm sector net worth dropped sharply

last year. During 1982, farmers again increased their holdings of debt, although continued poor income prospects caused the increase to be less than that of 1981. Total farm loans outstanding in 1982 increased only 6.5 percent to an estimated $215 billion at year-end, after 10.9 and 9.7 percent increases in 1981 and 1980, respectively.

Agricultural real estate debt outstanding increased 4 percent during 1982 to $110 billion, following 10.7 and 11.7 percent rises in 1981 and 1980. Nonreal estate farm debt outstanding increased by 9 percent during 1982, after increasing by 11.2 percent in 1981. The level of nonreal estate debt, including Commodity Credit Corporation (CCC) lending, stands at $105 billion, as continued low income of 1982 prevented the typical seasonal paydown of production debt. Although much of the short-term increase (about $5 billion) was due to nonrecourse loans, the remaining maturing short-term obligations continue to cause cash flow difficulties for the cash poor farm sector.

1983 Balance Sheet Changes

By the end of 1983, the decline in the land prices may have run its course. Land values could stabilize if farm income prospects for 1984 improve with the expected improvement of the U.S. and world economies and if there is reasonable success in controlling the size of the 1983 world crop. Combined with small increases in livestock inventory holdings and small decreases in crop inventories, this stability suggests that total asset values may hold steady over the year. On the "claims" side, the low level of income seen for the year will again cause some declines

in net worth; but if land prices stabilize, the drop in net worth should not be as severe as that of FY 1982. Both short- and long-term debt outstanding will most likely increase by less than was the case in 1982, and short-term debt will continue to build at a greater rate than long-term debt.

Given these projections for 1983, the overall debt-to-asset ratio in agriculture could rise above 20 percent by the end of the year. Relief may be forthcoming in 1984 if farm income improves and land values recover. In that case, farmers may be able to pay down or at least extend the maturity of some of their debt. Without a quick reversal of the fundamental supply/demand situation facing U.S. farmers, the adjustment process to a sounder financial base would take more time.

As is always the case, these sector figures are comprised of widely varying individual farm situations. Livestock producers are in a relatively better situation than crop producers. Those with conservative debt loads are in a better cash situation than those with heavy debts. Credit quality data, to be presented in more detail later in this report, suggest that a small but significant portion of farmers are in extremely difficult financial shape.

Government Loans and Payments

The private lending institutions of the Farm Credit System are, of course, affected by Government loans and payments. The Farmers Home Administration (FmHA) -- considered "the lender of last resort" for agricultural producers -- extended 97,422 direct loans amounting to $4 billion under its four largest farm programs during 1982. This represents a 53-percent decline in number and a

57.5-percent drop in volume from FY 1981. These four programs represent a little less than one-half of FmHA's total 1982 direct and guaranteed loan volume of $9.1 billion.

Contributing to the steep decline in FmHA loan activity was the temporary discontinuation of the economic emergency loan program. In FY 1981, the FmHA extended 27,348 economic emergency loans, totaling $1.25 billion. In FY 1982, the Secretary of Agriculture did not excercise this authority.

Under the natural disaster loan program, 42,863 loans amounting to $2.2 billion were extended. Still, this volume was down almost 70 percent from FY 1981. FmHA has budgeted $1.54 billion in natural disaster loans for FY 1983. However, because this program is classified as an "open ended, as needed" account, loan volume is subject to change based on weather conditions.

As an integral part of the Administration's reduction of Government activity in credit markets, FmHA's farm ownership real estate loans were reduced by 17 percent to $658 million. Of the applications received for real estate loans, only 10,189, or approximately 40 percent, were approved by FmHA.

FmHA farm operating loans made during FY 1982 increased 46 percent from $823 million to $1.2 billion, and the number of borrowers served climbed 50 percent to 44,370. Appropriations for FY 1983 increased funding by an additional 21 percent to $1.4 billion.

Farm Programs

Commodity Credit Corporation's price-support and storage loans outstanding at the end of 1982 are estimated at $13.6

billion, an increase of 70 percent over the $8 billion in loans outstanding at the end of 1981. These 2 record years of CCC nonrecourse loan activity reflect the severe crop-price situation. Direct program payments totaled $4 billion in 1982, a sharp increase over 1981 payments.

For 1982 programs, the main incentive for participation in USDA farm programs was eligility for CCC loans. Target price protection was a less obvious benefit, except for cotton and rice producers. For 1983, there are several major attractions centering on payments intended to encourage participation and to place cash in the hands of producers as quickly as possible, through advances of a portion of the diversion and deficiency payments.

The existence of the advanced payments, together with the continued poor crop-price expectations, suggest that 1983 could see a sharp increase in nonreal estate debt held by the CCC, as well as a significant jump in the portion of farm income in the form of Government payments.

Farm Credit System Conditions

The overall financial health of the Farm Credit System remains sound, despite the obvious financial stress now being felt by a portion of its borrowers. Substantial equity positions have been built up through years of sound operation, and capital ratios are being maintained at prudent levels so as to ensure the continued attractiveness of Farm Credit System bonds for investors who purchase them in private U.S. financial markets.

As was true with agricultural generally in 1982, this year has witnessed a drawing down on some of the financial reserves of the System. In a few cases, FICBs have invested capital in PCAs

because of large losses. As a result of 1982 economic conditions, it may become necessary to merge or liquidate approximately half a dozen associations. That possibility, however, would affect only a small portion of the 474 FLBs and 420 PCAs. While more evidence of individual stresses will continue to surface during 1983, the basic financial strength of the System will allow these associations to be handled without any risk to investors in Farm Credit bonds.

For the longer term, an improvement in farm income prospects is essential to the economic health of both farmers and the Farm Credit System. A long period of weak crop prices and declining land values would have grave consequences for both. This danger is widely recognized in the Congress and in the Administration, and farm programs being put into place for 1983 represent a major effort to avoid such a prolonged adverse period.

FARM CREDIT SYSTEM SHARE OF FARM DEBT

The Farm Credit System share of farm debt outstanding on January 1, 1983, is estimated to have reached $68.9 billion -- or 32 percent of the total estimated farm debt of $215 billion, and about the same as its share a year earlier, 32.5 percent.

Federal Land Banks

Over the past decade, Federal land banks have emerged as the major provider of farm real estate-secured lending, holding just over 41 percent of the real estate debt in 1982. This increase in

the share held by the FLBs occurred at the expense of the shares of life insurance companies and commercial banks. The life insurance companies lost much of their share in the early part of the decade as demands on them for cheap policy loans soared in the face of climbing interest rates and other investment and loan opportunities offered higher rates of return. The commercial banks reduced their mortgage holdings in the latter part of the decade, as interest rates skyrocketed and lendable funds dropped, causing liquidity pressures on their portfolios. The share of real estate debt held by institutions in general has gained significantly, while the share held by individuals has dropped correspondingly.

Production Credit Associations/Federal Intermediate Credit Banks

Total farm nonreal estate lending is expected to reach $105 billion by year-end 1982 -- an increase of 9 percent over year-end 1981 lending. The period since 1975 has witnessed the emergence of significant Government lending. CCC lending has increased ten-fold as crop prices have dropped. The lending by FmHA, the traditional "lender of last resort," has grown by nearly six times, as farm incomes declined and many farming operations were no longer able to support the high cost of borrowing from other sources. As a result, both PCAs and commercial banks have lost market share. The loss of market share by commercial banks has been substantial since 1975 -- their share at year-end is about 34 percent of the total. Although less dramatic, PCAs have also lost market share -- holding about 19 percent at year-end, down from 22 percent at the beginning of 1982. However, the share of nonreal

estate debt held by "individuals and others" stabilized. As the cash flow of farmers has deteriorated, merchants and dealers are offering attractive credit terms to spur sales. The FICB loans to other financing institutions comprise about 1 percent of farm nonreal estate debt.

Banks for Cooperatives

Cooperatives rely on banks for cooperatives for the major portion of their borrowed capital. Over 60 percent of the funds borrowed by cooperatives comes from this source. On January 1, 1982, cooperative debt outstanding owed to BCs amounted to $9.1 billion. On September 30, 1982, this debt outstanding totaled $8.1 billion.

BCs have been relatively more important as a source of long-term debt to cooperatives than as a source of short-term capital. In 1981, BCs provided 50 percent of the short-term debt borrowed by the largest 100 cooperatives, but were relatively more important as a source of long-term debt providing 63 percent of the total.

FARM CREDIT SYSTEM MARKET ACTIVITY AND RATES

The Farm Credit System's participation in the bond market declined significantly during FY 1982. As of December 1, 1982, the System had $71.1 billion in bonds outstanding -- a 1.7 percent increase between the end of 1981 and 1982, in contrast to a 17.1 percent increase between December 1980 and 1981. Declining loan demand caused the System's demand for new money in the bond market to drop precipitously by $1.3 billion in 1982, following 3

consecutive years of annual increases of $10.0 billion or more. The System's gross volume of bonds issued amounted to $46.8 billion, a 14.8 percent decline from 1981 volume. The level of gross short-term issues totaled $35.0 billion, equivalent to $4.0 billion less than the amount of maturing issues. Of the remaining $11.85 billion in term issues, $6.58 billion was raised to refinance maturing issues and the remaining $5.27 billion was new money.

The rates on short-term Farm Credit System securities peaked twice in 1982, reaching 14.50 percent at the end of March and 14.65 percent at the end of June. These peaks were considerably lower than the System record rate of 17.85 percent set in August 1981.

In the second half of the year, the System experienced a drastic reduction in its cost of funds. Between June 30 and November 30, the rates paid on 6-month securities plunged 5.80 percentage points from 14.50 to 8.7 percent.

If, as expected, the economy remains in a weak position as 1983 begins, and the Federal Reserve continues to pursue an accommodative monetary policy, the System will likely experience a further easing of interest rates. This would enable the System to reduce its average cost of funds through the first half of the year before it levels off over the balance of the year.

The Farm Credit System prices most of its loans using a variable rate determined by the average cost of bonds plus a spread for operating costs. As rates decline, the average cost of funds declines, but not as fast as market rates. Just as System rates lag increases in market rates durng periods of rising rates, they also come down more slowly.

Federal Land Bank Rates

Average Federal land bank rates on farm real estate loans remained virtually constant throughout 1982, and are expected to remain fairly static during 1983.

Because the FLB portfolio consists of nearly 90 percent term bonds and only 10 percent 6- and 9-month securities, the FLB could not take full advantage of the drastic reduction in short-term rates in the second half of the year. During the year, the FLBs retired $5.55 billion in term bonds bearing a weighted average interest rate of 8.8 percent. These relatively inexpensive issues were replaced with $9.98 billion in term bonds at a considerably higher cost of 13.4 percent, thus negating the effect of lower short-term rates.

The year opened with FLBs charging an average rate of 12.12 percent to its farm real estate borrowers and closed with FLB borrowers paying an average rate of 12.23 percent, with minimal fluctuation over the course of the year. Similarly, the FLBs' average portfolio cost experienced minimal change, beginning the year at 11.65 percent and ending at 11.88 percent. In 1983, the FLBs will be retiring $6.0 billion in term issues, bearing an average cost of 10.0 percent. With only a slim chance of term rates falling much below 10 percent in 1983, the FLBs will once again experience very little fluctuation in their average funding costs, which will be reflected in fairly constant rates to land bank borrowers.

The FLBs also extend loans for certain rural residences. The average FLB rural home loan rate stood at 12.58 percent on December 1, 1982, which was higher than the December 1, 1981, rate

of 12.35 percent, but lower than the mid-year peak of 12.69 percent. Average rates on farm-related business loans were 12.34 percent at the end of 1981, and climbed to 12.73 percent by June, leveling off to 12.60 percent by year-end.

Federal Intermediate Credit Banks/ Production Credit Association Rates

In the first quarter of calendar year 1983, approximately 35 percent of the Federal intermediate credit banks' portfolios will mature. As these portfolios contain issues sold at rates as high as 14.5 percent, the average cost of the FICB portfolio will decline dramatically when maturing issues are redeemed or refinanced. The interest cost on funds in the FICB portfolios could fall between 10 and 11 percent during the first quarter of 1983 -- a significant drop from December's cost of 11.74 percent. In turn, this reduction will trigger lower rates at the production credit associations where rates to farmers averaged 13.75 percent in October. As rates are expected to continue declining moderately through the first quarter of 1983, PCA loan rates for spring planting should be significantly below the October rate.

Banks for Cooperatives Rates

In early 1982, the expensive short-term issues of June through August 1981 matured, helping the banks for cooperatives to lower their average cost of funds from 14.0 percent at the beginning of 1982 to 13.1 percent by June. In the second half of the year, the BCs' average cost of funds declined 1.7 percentage points, from 13.1 percent on June 1 to 11.4 percent on December 1.

If short-term Treasury rates average 8 to 10 percent in 1983, the BCs could experience an additional 1-percentage point decline in average funding costs by mid-1983, before leveling off the balance of the year.

The BCs' lower funding costs were reflected in lower interest rates charged to cooperative borrowers. Average seasonal rates on BC loans declined from the early 1982 rate of 14.3 percent to 11.5 percent by December. Longer term loans were extended at an average rate of 14.0 percent on January 1, 1982, and at a lower rate of 12.73 percent on November 1.

FARM CREDIT SYSTEM LOAN VOLUME

Farm Credit System lending activity slowed during 1982, and the pattern shifted to reflect the difficult income circumstances of agriculture. Loans outstanding were lower than a year ago in the FICB/PCA and BC systems, up only moderately in the FLB system, and up a modest 2.8 percent for the three systems combined. By comparision, the 1980-81 increase was 15.2 percent and the 1979-80 growth was 18.2 percent.

Total Farm Credit System loans outstanding stood at $80.4 billion on December 31, 1982, as compared to $78.2 billion 1 year earlier. All of the increase was due to FLBs; PCA, BC, and FICB-OFI loans outstanding posted declines when yearend data for 1982 are compared with those for 1981. This slowdown in loan activity indicates both poor income prospects and financial retrenchment in the farm sector. Farmers are borrowing only what is absolutely necessary in the face of low commodity prices and diminished cash flow.

Federal Land Banks

FLB outstandings totaled $50.4 billion by the end of 1982, as against $46.5 billion on December 31, 1981 -- equivalent to an annual growth rate of 8.4 percent. FLB loans outstanding grew at annual rates in excess of 21 percent in each of the 3 preceding years. The number of FLB loans outstanding increased by 3.3 percent over last year to 667,912 at the end of December 1982. The average FLB loan outstanding was for $75,422 on that date, 4.9 percent more than a year earlier.

Production Credit Associations/Federal Intermediate Credit Banks

PCA outstandings shrank at an annual rate of -4.4 percent during 1982, falling from $21.7 billion at the start of 1982 to $20.7 billion at year-end. There were 382,810 PCA members with loans on December 31, 1982, compared with 380,186 on the same date a year earlier. This represents an 0.7 percent increase. The average PCA loan outstanding was for $54,106 on that date, only 5.0 percent lower than the previous year.

FICB-OFI outstandings stood at $871.957 at the end of 1982, compared with $931.754 million a year earlier. The decline in FICB-OFI outstanding loans amounted to 6.4 percent over the past year.

Banks for Cooperatives

On December 31, 1982, the BCs had $8.4 billion in loans outstanding, compared to $9.1 at the start of the year. BC loans outstanding declined at an annual rate of -7.7 percent during

1982, versus -4.0 percent in 1981. BC lending is particularly sensitive to changes in interest rates charged by other lenders and to commodity lending by the CCC.

FARM CREDIT SYSTEM LOAN QUALITY

The Federal land banks and Federal intermediate credit banks, as part of their supervisory responsibility, maintain credit review teams who review loans and credit administration and also classify loans in each association on an annual basis. FCA's Office of Examination reviews a select number of associations in each district during its annual examination of the bank to ascertain the adequacy of the bank reviews and particularly the credit classifications the banks have assigned the association loan portfolio. Banks for cooperative loans are classified by FCA examiners as part of the routine examination process. System loans are thus classified into four quality ranges: 1) acceptable, 2) problem, 3) vulnerable, or 4) loss.

Acceptable Loans	Loans of the highest quality ranging down to and including those having significant credit weaknesses.
Problem Loans	Loans having serious credit weaknesses requiring more than normal supervision, but believed to be collectible in full.

Vulnerable Loans	High risk loans still considered collectible but involving probability of loss in the event repayment from available sources does not materialize.
Loss Loans	Loans on which all or any portion is deemed uncollectible. These loans represent cases in which it appears that all or a portion of the borrower's total indebtedness, including any previous partial charge-off, will not be collected in full.

Important factors considered in classifying loans include:

The individual or entity (integrity and moral character management ability, experience, etc.);

Financial position and progress;

Repayment capacity;

Loan purpose or basis of approval;

Collateral offered or available as security.

Additionally, a good deal of weight is given to the

borrower's performance on other loans held by the Farm Credit System and other lenders.

During 1982, PCA loans classified as "acceptable" dropped by 7.4 percent to 77.2 percent of loans outstanding. The combination of "vulnerable" and "loss" PCA loans totaled 2.7 percent above the 1.0 percent level of 1978, and still above the most recent (1975) peak of 2.5 percent.

System Loan Losses

Loan losses represent a final result of borrower financial difficulty that could not be overcome through loan servicing. They reflect loss to the System and do not cover additional substantial losses to the unsuccessful borrowers. As of June 30, 1982, the amount of loan losses increased compared to 1981; however, losses still remained at a very small percentage of loans outstanding.

For the year ending December 31, 1982, the banks for cooperatives' loan losses totaled $10.6 million. This represents .127 percent of the total BC loans outstanding. During 1980, BC loan losses represented a net gain of .008 percent of total loans outstanding as BCs received $858,000 from the sale of acquired property. The following year, BC losses amounted to $12.2 million. This represented .13 percent of the total BC loans outstanding for 1981. Because of the nature of BC lending operations, year-to-year comparisons of BC loan losses do not provide a reliable indication either of credit practices or of the general economic conditions of cooperatives.

In combination, the Federal intermediate credit banks and

production credit associations realized approximately $160.4 million on loss loans (0.75 percent of their loans outstanding) during the year ending December 31, 1982. This was a substantial increase from the previous year's $44.2 million.

The Federal land bank/Federal land bank association write-offs of about $1.5 million is slightly above last year's write-offs in absolute terms, but constituted only .003 percent of total loans outstanding.

Credit Monitoring

In 1982, prospects for a third consecutive year of depressed farm prices, low farm income and historically high interest rates heightened concern for the repayment capabilities of farm borrowers. In early 1982, the Farm Credit Administration began a quarterly credit monitoring procedure. Information is gathered on aspects of financial stress in agriculture, and specific data are obtained on repayment prospects of Farm Credit System borrowers. In an increasing degree of severity, the measures used to indicate the extent of distress include repayment rates, amounts of refinancing, delinquency rates, and loans in the process of liquidation.

During 1982, the FLB repayment rate improved slightly over 1981, but remained significantly below the 1978-1980 average. Overall, FLB repayments in 1982 were 71.8 percent of the 1978-1980 average rate, compared with 66.7 percent for 1981.

The PCA collection rate for 1982 declined to 90.2 percent of the 1978-1980 average, compared to 97.3 percent for a year

earlier. The FICBs estimate that, on average, up to 5 percent of their current borrowers Systemwide may not qualify for credit in 1983. The reason most frequently cited by lenders expecting to discontinue borrowers was economic conditions beyond the control of operators, although poor management was a factor in some cases.

BC repayment rates were slightly lower than the 1981 average, but still remain high. For 1982, the BC repayment rate was 98.9 percent of the 1978-1980 average.

Although the delinquency rate on Farm Credit Systen loans improved seasonally as 1982 progressed, the improvement was not an indication that financial stress was subsiding. Rates were above year-earlier figures. Of 667,912 Federal land bank loans outstanding on December 31, 1982, 21,007 were delinquent. A year earlier, 15,603 loans were delinquent out of 646,372 outstanding. The FLB delinquency rate, therefore, increased from 2.4 percent at the end of 1981 to 3.2 percent at the end of 1982. Production credit associations had 12,625 delinquencies out of 382,819 loans outstanding at the end of 1982, or 3.3 percent. No comparable figures are available for 1981, but with PCAs in 10 districts reporting there were 11,239 delinquencies out of 366,260 loans on the books for a 3 percent rate.

The most severe result of financial stress is the amount of loans that are in the process of liquidation. As a percent of outstanding loans, both the FLBs and the FICBs reported a very low level of liquidations. For FLBs, the amount of loans being liquidated rose from 0.17 to 0.54 percent between September 30, 1981, and September 30, 1982. Over the same period for the 11 reporting FICBs, the rate rose from 0.58 to 1.51 percent.

Although the rates increased substantially, the absolute amounts of $268 million in the FLB system and $329 million among the FICBs are minimal relative to total loans outstanding.

Forbearance and Foreclosure

Continued financial stress in the agricultural sector has forced the Farm Credit System to make some difficult decisions. These decisions are between continued forbearance and initiating actions that may lead ultimately to foreclosure. It is fortunate that the management ability and financial condition of the vast majority of the System's borrowers are such that these decisions must be made in only a very small number of cases, especially when compared to the total number of borrowers.

Our System's policy is to continue working with distressed borrowers as long as they have any reasonable chance at all of recovery. It must be recognized, however, that there are situations where no reasonable prospect for recovery exists, where continuation of credit will simply increase losses to the farmer and to the lending institutions. Where there is no reasonable prospect of profitable operations using borrowed funds, all are best served if the borrower liquidates the operation, pays off his loan, and withdraws his remaining equity.

That the Farm Credit System adheres to its forbearance policy is reflected in the fact that renewals and refinancings have increased as a percentage of loan activity. In 1982, PCA renewals accounted for an average of 33.0 percent of the monthly volume of loans made, compared to 30.2 percent in 1981. FLB refinancing of nonreal estate debt has claimed a larger share, rising to 16.7

percent of loans made during the first 9 months of 1982, compared to 13.3 percent in the first 9 months of 1981.

In a few cases, foreclosure action is initiated. A total of 1,370 FLB loan accounts were in some stage of foreclosure at the end of 1982, compared with 719 a year earlier. There were 1,072 PCA accounts in some stage of foreclosure as of December 31, 1982, with 11 of 12 districts reporting.

In calendar year 1982, FLBs, with 667,912 loans outstanding, took actions resulting in 385 foreclosure auctions nationwide. This figure compares to 150 FLB foreclosure auctions in 1981. PCAs, with 382,819 members with loans outstanding, took actions that resulted in 870 farm foreclosure auctions nationwide in 1982. We have no comparable data for PCAs in 1981, though we know this year's activity was higher. Nevertheless, during 1982, foreclosure auctions were necessary in only a very small fraction of these accounts. Even under continued bad conditions, less than twelve one- hundredths of one percent (0.11998 percent) of the more than one million Farm Credit System loans outstanding were foreclosed through auction sales. It should be noted that no System foreclosures are initiated until the borrower appears before the elected board of this local association and this board of his peers votes to proceed with foreclosure.

The System's forbearance policy ultimately means that it shares part of the risk of farm operations. The extent to which PCAs share the financial risk of their borrowers shows up in losses. Nationwide, PCAs realized more net losses on loans in the past 3 years than they did in total, from their inception in 1933 through December 31, 1979. Fortunately, the Farm Credit System had made provisions for potential losses and has absorbed them

without disruption of lending operations or impairment of the System's ability to meet its obligations to investors.

While perhaps attractive in theory, in reality the concept of a blanket moratorium -- if applied to private lenders -- has potential for doing great and unintended harm. This is especially for private cooperative lending institutions like the Farm Credit System, which obtain their loan funds by selling securities to investors.

There are many reasons why the moratorium approach will not solve the current farm income crisis. In terms of impact upon the Farm Credit System, such a policy would unwisely:

1. Erode the confidence of bond market investors, as reflected both in price and availability of funds;
2. Drive other private lenders -- including commercial banks and insurance companies -- out of agriculture.
3. Impose even greater burdens on Government programs such as FmHA, the lender of last resort;
4. Increase Farm Credit System servicing expenses in order to protect against further risk exposure and against erosion of the farmers' equity in their own cooperative institutions; and
5. Increase the immediate costs to the System from having to carry non-income producing assets -- in effect, forcing the System's sound owner/borrowers into a position of subsidizing and taking the loss for those in default.

The net result of all these factors would be higher interest rates

to farm borrowers and no mechanism for providing operating funds to those affected by the moratorium.

Having expressed our concerns about a blanket moratorium, let emphasize again that the cooperative Farm Credit System remains fully committed to going that extra mile with hard-pressed member-borrowers. As required by FCA regulations, each district already has deferral and reamorization procedures in place. We certainly recognize the plight of the nation's farmers caused by steadily declining prices in the face of mounting operating costs. In a statement adopted at its meeting here in Washington last month, the Federal Farm Credit Board reaffirmed the System's long standing policy of forbearance -- sticking with a borrower as long as there appears to be any reasonable possibility of working out of financial trouble.

I have with me a copy of the full text of that statement made by our policymaking Federal Board, and I offer it for inclusion in the record at this point. But let me also briefly summarize what it said. The Board called for strong emphasis on appropriate loan servicing that will benefit borrowers who are cooperating and making an honest effort, despite adverse circumstances beyond their control, to meet the conditions of their loan contracts.

Loan servicing treatments by Federal land banks, the System's long-term mortgage lenders, could include:

*informal forbearance, which is simply allowing more time for the borrower to make the loan payment;

*deferment of principal, requiring the borrower to pay only the interest on the loan;

*amortized extension, which provides for a missed payment to be amortized over a period of time;

*reamortization or redistributing the loan balance throughout the remaining life of the loan and lowering payments; and

*voluntary liquidation, which allows the borrower to convert equity into cash during an agreed upon time period.

Many of the same procedures might apply to borrowers from production credit associations, the System's short- and intermediate-term lender. They could include such steps as:

*short term extension or carrying past due borrowers until capital assets are sold to provide repayment;

*refinancing to longer pay back terms; and

*renewing the borrower's annual operating loan.

In pledging the System's support, of course the board recognized that staying with farmers in difficulty must be balanced against the intent of Congress of maintaining a viable credit delivery system and the necessity of maintaining the good reputation of Farm Credit securities in the nation's financial markets. Mindful of the cooperative nature of these lending institutions, we at FCA have a continuing obligation to protect the interest of all borrowers -- both present and future -- as well as the interest of investors upon whose confidence the System depends for its loan funds.

CONCLUDING COMMENTS

Mr. Chairman, I commend you for your positive efforts here to address some of the major problems that ultimately affect all of us who are involved in agriculture and in agricultural lending. We view this hearing today as a serious and constructive attempt

on your part to deal with a very serious situation. In that same spirit, I would offer a few brief, but hopefully constructive, comments on how you might best respond legislatively.

First of all, so there is no misunderstanding, let me restate what is today the overriding problem faced by farmers. That problem is not credit, but rather creditworthiness that arises from too many years of poor prices and low net income. Credit, in that sense, is no more than a temporary bridge for those who can survive until farm income improves. While credit certainly remains vital, salvation for most farmers in most areas will only come from a strong dose of increased income.

The Farm Credit Administration knows of no serious problems created by current bankruptcy laws in the day-to-day operations of Farm Credit institutions as they manage mortgage loan accounts. Therefore, we have no specific recommendations to make in this area. As for the number of bankruptcy filings among System borrowers, 1982 was the first year in which every one of the Federal land banks from the twelve Farm Credit districts compiled and reported such information. The total number of these bankruptcies in 1982 was 1,416 -- a rather small number in relation to the 667,912 FLB loans outstanding as of the end of the year. We do not have the same complete data for PCAs in 1982; however, figures for 11 of the 12 districts indicate that 1,292 borrowers filed for bankruptcy (there were 332,418 PCA loans outstanding for those 11 districts at the close of 1982).

What suggestions do we have for improving the distressed agricultural economy? In our view, the only solution lies in stimulating demand in both the export and domestic markets and in developing initiatives that will promote a sustained worldwide

economic recovery. For that reason, Mr. Chairman, we applaud your recent efforts and those of other Members of the Senate Agriculture Committee in shaping and gaining committee approval of new export trade legislation designed to expand our agricultural markets overseas. We also recognize the value of the new emergency agricultural credit lending legislation reported last week by the Senate Agriculture Committee and hope that it will help those affected get through this difficult period. However, because the Farm Credit System consists of private lending institutions and is not a unit of Government like the Farmers Home Administration, we would object to similar legislative treatment that fails to recognize the differences between our System's institutions and Government- funded programs.

With those general observations, Mr. Chairman, I conclude my statement. If you or any of the Subcommittee Members have any follow-up questions, I will be more than happy to respond at this time or in the coming weeks as we continue our dialogue on farm credit issues.

FEDERAL FARM CREDIT BOARD
Statement on Lending Under Stress Conditions

Recognizing the current plight of the Nation's farmers in which they have experienced declining prices in the face of mounting operating costs, the Federal Farm Credit Board pledges the fullest support of the cooperative Farm Credit System in doing what it can to assist hard-pressed member-borrowers while continuing to carry out the intent of Congress by maintaining a viable credit delivery system. The Federal Farm Credit Board reaffirms the System's long-standing policy of forbearance — that is, sticking with a borrower so long as there appears to be a reasonable possibility for him to work out of financial difficulties and reestablish a fully viable farm business. In so doing, System institutions must be prepared to require that adjustments be made or disciplines exercised to help assure the borrower's ultimate recovery. Foreclosure or other such drastic action is to be avoided unless and until there is no reasonable alternative course of action remaining.

In carrying out this policy, strong emphasis must be placed on appropriate loan servicing that will benefit the borrowers who are cooperative and making an honest effort to meet the conditions of the loan contract. It is recognized further by the Board that the desire to stay with farmers in difficulty must be balanced against the need to maintain the good reputation Farm Credit securities have in the financial market, thereby assuring the System's ability to raise loan funds. Since the Farm Credit System is a privately-owned institution, it has an obligation to all the farmers who own it to run a sound business and not put some borrowers in a position of subsidizing defaulting borrowers as a result of excessive interest and loan losses.

Thus, the Federal Farm Credit Board recognizes its obligation to protect the interest of the System borrowers -- both present and future -- as well as the interest of investors upon whom the System depends for loanable funds.

STATEMENT OF

JAMIE J. JACKSON, BOARD MEMBER

OF THE

FEDERAL HOME LOAN BANK BOARD

Mr. Chairman, members of the Committee, I appreciate this opportunity to appear before you today to discuss the recent increase in home mortgage delinquencies and foreclosures. My report will focus on the status of the thrift industry, the causes of increased delinquencies, the prospects for declines in delinquency and foreclosure rates, and our views on legislative proposals to provide emergency mortgage relief for borrowers facing foreclosure or to institute a moratorium on the initiation of foreclosure procedures.

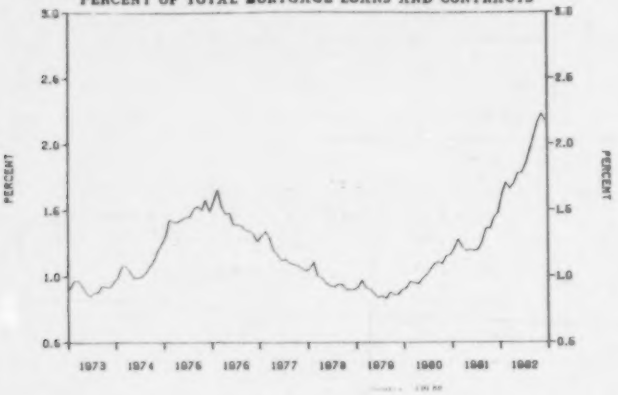
STATUS OF THE THRIFT INDUSTRY

The thrift industry is now recovering from the worst crisis period experienced since the days of the Great Depression. Because of the industry's former structural rigidity, thrifts were unable to adapt to the recent volatile economic environment and the unexpected dramatic rise in interest rates. However, with the recent sharp drop in short-term interest rates, the industry has been able to "turn the corner" in terms of its immediate outlook and health. Thrifts' prospects for a long-term recovery have been further enhanced through the concerted actions of the Bank Board, the industry itself, and the Congress to rectify the industry's structural problems.

FORECLOSURE ISSUES

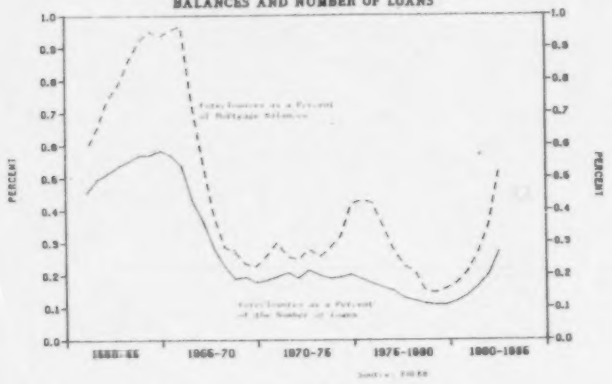
Delinquencies on home mortgage loans and foreclosures on those loans have reached their highest levels since the mid-1960s, and public concern over these rising numbers has increased as well. It is clear that there is stress and difficulty in the market. In terms of delinquencies on mortgage loans, the ratio of mortgages held by S&Ls that are 60 days or more delinquent to total mortgage balances was 0.83 percent in August, 1979. By January of this year, that ratio had more than doubled and had reached 2.25 percent. (See Chart 1).

MORTGAGE LOANS AND CONTRACTS 90 DAYS OR MORE DELINQUENT AS A PERCENT OF TOTAL MORTGAGE LOANS AND CONTRACTS



In examining the foreclosure rates on delinquent mortgage loans, the trend is similar. The percentage of loans foreclosed by FSLIC-insured associations has risen from a cyclical trough in the first half of 1979 of 0.11 percent, in terms of total mortgages, and 0.15 percent, in terms of mortgage balances, to an annualized rate in the first half of 1982 of 0.27 percent of total mortgages and 0.52 percent of mortgage balances. (See Chart 2 for historical view of annualized rates of foreclosures by S&Ls).

ANNUALIZED RATES OF FORECLOSURES BY S&L'S BALANCES AND NUMBER OF LOANS



The Bank Board is concerned about the hardships facing economically distressed homeowners. However, we are also concerned that federal intervention through financial institutions could actually be counterproductive and could have serious adverse public policy consequences. Accordingly, we believe that Congress should consider the following factors in evaluating trends in delinquencies and foreclosures.

First, there is evidence that an economic recovery is now underway. As you know, the unemployment rate appears to be past its peak, which was attained at year-end 1982 at 10.8 percent. Moreover, fuel oil and gasoline prices have recently fallen, and mortgage interest rates have dropped from over 17 percent in 1982 to as low as 12 percent in 1983 in some areas. And, housing starts, a key indicator of construction activity, showed a modest upswing in January, 1983. This turnaround is quite significant because in recessionary periods characterized by prolonged high unemployment or declines in borrower income, the incidence of mortgage delinquences and foreclosures is higher than in a strengthening or strong economy. The Board anticipates that as the recovery proceeds, both the unemployment rate and the average duration of unemployment will decline significantly. Higher employment, in turn, will significantly moderate the incidence of foreclosures occurring due to reductions in borrower income.

The economic recovery that has occurred recently should also address a second major cause of default -- the borrower's negative equity position. The recent declines in inflation and home values have increased the probability of foreclosure for a homeowner in financial difficulty, particularly for an individual who purchased a home in the last two years when housing costs were at a peak. When price escalation is not occurring, a borrower who purchased during a period of rising prices and subsequently encountered financial problems, cannot sell the house at a profit because of his lack of equity. Thus, borrowers having a negative equity position are more likely to view foreclosure as a rational alternative to sale of the property.

The Board believes that the decrease in unemployment and a

decline in interest rates should increase the demand for housing. This demand should halt the recent declines in price and even put some upward pressure on home prices, thereby creating some equity accumulation for homeowners. As homeowners' equity goes from negative to positive, defaults should decline.

A second factor to consider in weighing the need for federal foreclosure relief is that there are indications that the 1982 foreclosure data may be artificially high and reflect factors other than current high unemployment levels. Thus, as indicated previously, borrowers who purchased homes in the late 1970s with low or no downpayments faced substantial disincentives if they needed to sell their homes in 1981 and 1982. For example, price appreciation in existing homes was low or negative in 1981 and 1982 due to prohibitively high prevailing interest rates, thereby reducing the borrower's equity position. Because of the escalating interest rates prevailing in 1981 and 1982, many borrowers had to provide seller financing in order to effect the sale of a home, thereby substantially reducing any profit received. Further, the high interest rates made the refinancing of second trusts and balloon payment loans difficult and, in many cases, impossible.

Finally, any profit a borrower might realize from a sale in 1981 and 1982 would have been reduced by transaction costs such as real estate commissions, taxes and fees. Given all of these considerations, individuals in the last three years who could not meet their housing payments, who did not have substantial equity in their homes, and who could not afford to refinance or sell the property, may have viewed foreclosure as the least costly alternative.

In a like vein, a third consideration moderating the significance of the upward trends in delinquencies and foreclosures is that the data base overstates the number of home loans actually non-performing or in foreclosure. First, a loan is generally categorized as delinquent until all past payments and late charges are paid. Thus, it is incorrect to conclude that more than 2 percent of loans are totally nonperforming. While the overall increase in the delinquency rate is about 1.25 percent, delinquent

borrowers may be making partial payments on some of those loans. Second, the rise in personal bankruptcy filings increases the delinquency statistics because a bankruptcy petition imposes an automatic stay on foreclosure proceedings. Therefore, more loans are being held in the inventory of delinquent loans for longer time periods. Finally, the numbers of delinquent mortgage loans and loans currently in foreclosure include not only owner-occupied but also investment properties. Thus, every mortgage problem does not reflect a financially distressed borrower in danger of losing his or her home.

A fourth factor mitigating against federally legislated foreclosure relief is the substantial regional variation in the delinquency and foreclosure levels. In many areas, the high foreclosure rates reflect the incidence of unemployment due to long-term industrial and capital production problems, housing surplus, and other structural factors triggering the current economic cycle. These long-term problems can only be resolved by structural adjustments in the economy.

The final and most significant factor arguing against federal foreclosure relief is that lenders are forbearing whenever possible, particularly where default results from income losses beyond the control of the borrower. Lenders face substantial disincentives to foreclosure, including adverse publicity in the community, high administrative costs, and frequently, substantial investment by lenders in improving properties prior to sale. It is a much more common practice for associations to undertake a voluntary forbearance policy in times of widespread economic distress, particularly where the market is weak and where lenders will encounter the same difficulties as the borrower in trying to sell the property profitably.

The conclusion that lenders are forbearing is supported by data showing that the ratio of actual foreclosures by FSLIC-insured associations in 1981 and 1982 was significantly lower than the ratio of loans 60 days or more delinquent. While the mortgage contract does confer upon the lender certain contractual rights and remedies in the case of delinquency or default, it may be in

everyone's best interest if the lender shows forbearance in such circumstances. And it is my belief that lenders are currently forbearing.

Given the weakness of many housing markets, the long foreclosure period required in many states, and the costs of foreclosures including legal fees, accrued interest, maintenance, and property taxes, most lenders, I believe, view foreclosure only as a last resort. Generally, an association turns to foreclosure only after a careful assessment of the likely costs of continued forbearance compared to the likely return on the sale of the property.

LEGISLATIVE ALTERNATIVES

In addition to the Bank Board's general conclusion that federal remedies for foreclosures are not advisable at this time, the Board has a number of reservations about the need for and efficiency of certain types of relief now under consideration. Specifically, S. 466, H.R. 1, and H.R. 1330 would require the federal financial supervisory agencies to relax operating limitation institutions with respect to mortgage delinquencies, and to urge regulated lenders to exercise forbearance with regard to delinquent home loans. Additionally, H.R. 1330 would require the financial institution regulators to ensure that lenders assist distressed borrowers to apply for emergency mortgage assistance payments prior to instituting foreclosure proceedings, and that lenders forbear from foreclosure until the Seretary of Housing and Urban Development has acted on the assistance application. Finally, H.R. 1330 would require the Federal Home Loan Banks and Federal Reserve Banks, when considering applications for advances, to give special consideration to institutions which have exercised forbearance.

The Bank Board has concerns about this approach. First, as discussed earlier, we question the need for such an approach since it is common practice for associations to undertake voluntarily a forbearance policy in times of widespread regional economic distress.

Second, in the absence of any evidence of widespread institutional abuse of discretion in these instances, legislative or

regulatory restrictions on lender foreclosures would have detrimental effects far outweighing benefits to borrowers or institutions. I believe that the public interest is best served by the availability of the most efficient mortgage credit instruments that respond to the needs of lenders and borrowers. Government action that interferes with the contractual rights of the parties introduces uncertainty into the marketplace, resulting in an increased cost of funds and the reduced availability of credit. Such a result is clearly not in the long-term best interest of the public.

SUBSIDIES TO LENDERS

The Bank Board also believes that any proposal using the financial resources of the FSLIC fund to pay interest on delinquent mortgage loans could represent a serious threat to the solvency of the fund and radically compromise its ability to carry out its historic role of deposit insurance.

The FSLIC bears a particularly heavy burden at this time. In the last two years, the number of cases which the FSLIC has resolved exceeded the number of all problem cases in the last 50 years. Moreover, the FSLIC faces immense challenges in the next few years in dealing with weak institutions. For example, at the present time, the FSLIC must find solutions for approximately 100 associations that are either insolvent or ineligible for capital assistance. Moreover, the Board anticipates that, under the Garn-St Germain Net Worth Certificate program, the FSLIC will expend substantial sums in capital assistance to thrifts in 1983. Any further dilution of these resources could prove extremely damaging to the integrity of the fund and to public confidence in regulated depositories.

For similar reasons, the Bank Board has reservations concerning the proposal for using the Federal Home Loan Banks' funds to provide advances to lenders to subsidize delinquent loans. In our view, the strength and integrity of the Federal Home Loan Bank System are its greatest assets. The System performs the vital function of providing a central facility to supplement the resources of the home lending institutions. Because the Bank System is able to borrow at rates only slightly above Treasury

rates, it is able to advance funds to thrift institutions to meet liquidity and home lending needs. In fact, at the present time, the regional banks have approximately $61 billion in advances outstanding. Were the Congress to mandate new advances for subsidies to lenders regarding delinquent loans, an additional burden would be placed on the system, resulting in a substantial increase of costs to it, borrowing institutions, and the American homebuyer. Thus, I believe that any attempt to use the Bank System for subsidies would be short-sighted and would compromise seriously the legislative intent and function of the structure.

FORECLOSURE MORATORIUM - EFFECT UPON LENDERS

In addition to the concerns noted previously with respect to providing subsidies to lenders on non-performing loans, the Bank Board also has reservations concerning any proposal for a federally imposed moratorium on mortgage loan foreclosures. In our view, a proposal requiring lenders to forbear unconditionally on seriously delinquent loans made either under certain mortgage programs or made to specific sectors of the population could have severe, adverse effects on lenders, existing homeowners and new homebuyers.

From a public policy standpoint, the effect that such a proposal would have on lenders is particularly critical. Generally, when a mortgage loan is in default and foreclosure is under serious consideration, a lender must consider several courses of action. After a default, the lender's first desire is to obtain repayment of the loan from the borrower. Unfortunately, in those areas of the country having long-term structural economic and unemployment problems, repayment is not a realistic option. The next priority, then, is to protect the mortgage collateral and to prevent the erosion of any equity in that collateral caused by the borrower's failure to pay taxes and utilities or to maintain the property adequately.

Because of the delays and problems inherent in foreclosures and bankruptcy proceedings, the lender must decide whether to leave the defaulting borrower in title and possession or to take over the property itself. As noted earlier, many lenders view

foreclosure as a last resort. Instead, lenders prefer to work with the borrower to modify or restructure the terms of the loan. This is particularly true in those instances where the borrower has had a good payment record and where problems have arisen due to unforeseen economic difficulties. Moreover, lenders are willing to forbear on foreclosures and to "carry" the delinquent homeowner as long as the borrower makes a good faith effort to contribute some funds toward his liability.

The enactment of any federal moratorium on foreclosures is poor public policy, in our judgment, for several reasons. First, if forbearance is required, lenders' and borrowers' ability to rely on their contractual rights and remedies will be in question. In essence, a moratorium would irrevocably alter the rights and risks of both the lender and borrower. Lenders who have existing contracts with homeowners could no longer look to the value of the property as security for the loan made.

This would hurt borrowers as lenders would be reluctant to make loans because of the radical reallocation of risk. This reluctance would inevitably decrease the availability of credit and lead to higher mortgage interest rates. Any significant increase in long-term interest rates could easily reverse the recent modest recovery in the housing industry as well as a recovery in the economy in general.

Moreover, if a lender cannot exercise its contractual right to foreclose, then it must find other means to bolster and sustain its position against erosion of the value of the collateral that may occur during a moratorium period. In an effort to protect themselves at the outset, lenders may require larger equity cushions from prospective purchasers prior to making loans on homes. For example, instead of requiring a 5 percent or 10 percent downpayment, a lender might require a 25 percent to 40 percent downpayment in order to ensure that the borrower has enough equity in the property, thereby reducing the lender's risk in the transaction. An increase of this magnitude probably would preclude many first time purchasers from entering the housing market.

Additionally, imposing a moratorium would negatively affect the liqudity of lenders who have aggressively marketed originations to the secondary mortgage market. While lenders attempt to forbear whenever possible, forbearance on a loan sold in the secondary mortgage market may become so prohibitively expensive over an extended period of time that lenders are ultimately forced to initiate foreclosure proceedings. This pressure to foreclose results because lenders must make up the payments for or repurchase loans sold to secondary market investors, when such loans either are delinquent or are in the process of foreclosure, whether or not the lenders have received payments from the borrower. The advances required of lenders vary under the various secondary market programs, but all obligate the lender to forward at least interest payments to the investor, even if no payments have been made by the borrower. These investor requirements place an enormous liquidity strain on a lender, particularly those which are servicing many loans in areas of high unemployment. To obligate a lender to forbear unconditionally for an undetermined time period is unrealistic and may create a liquidity crisis for those institutions. Therefore, the Bank Board cannot support this form of proposed relief.

In conclusion, the Bank Board fully supports Congressional consideration of a public policy to address the growing problem of home mortgage foreclosures in the context of a struggling economy and its effect on American homeowners. However, the Board believes that Congress could better address problems of insufficient income by providing income assistance payments directly to individual homeowners. This would be preferable and more efficient than indirect subsidies through lenders or a moratorium on foreclosures. An additional benefit of a direct subsidy is that the costs are plain for the Congress and the public to see and measure. It is our view that to the extent the major problems underlying the increase in foreclosure rates -- a weak economy and high interest rates and unemployment -- can be remedied, we can then expect to see a mitigation in the rate of foreclosure. Thus, the Board believes that the Congress can best deal with the problems

resulting from a depressed economy by examining those areas of unemployment and difficulty, and dealing with them directly.

That concludes my statement. I will be happy to answer any questions.

Senator DOLE. Thank you all again for participating in today's hearing.

The hearing is now adjourned.

[Whereupon, at 11:45 a.m., the subcommittee adjourned, subject to the call of the Chair.]

○